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T H E  
**Solicitor's Guide,**  
A N D  
**Tradesman's Instructor,**  
C O N C E R N I N G  
**B A N K R U P T S.**

C O N T A I N I N G

The Law relating thereto ; with plain Directions whereby every one may see how he may be affected by, and in what manner act under a Commission of Bankrupt ; whether he be DEBTOR, CREDITOR, or ASSIGNEE : Also the BANKRUPT is shewn his Interest and Duty, and the Method to obtain his Certificate, and the Solicitor (or his Clerk) enabled to proceed under a Commission with Ease and Expedition.

T O W H I C H I S A N N E X E D

The various Forms of Proceedings, *viz.* Memorandums, Depositions, Examinations, Affidavits, Letters of Attorney, Orders of Dividend, Certificate, Bill of Fees, &c. with Instructions relating to the same.

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By the AUTHOR of *The Solicitor's Practice in the High Court of Chancery epitomized.*

A N D

Revised by a COMMISSIONER OF BANKRUPTS.

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The FOURTH EDITION corrected and much improved from AUTHORS of the best Authority.

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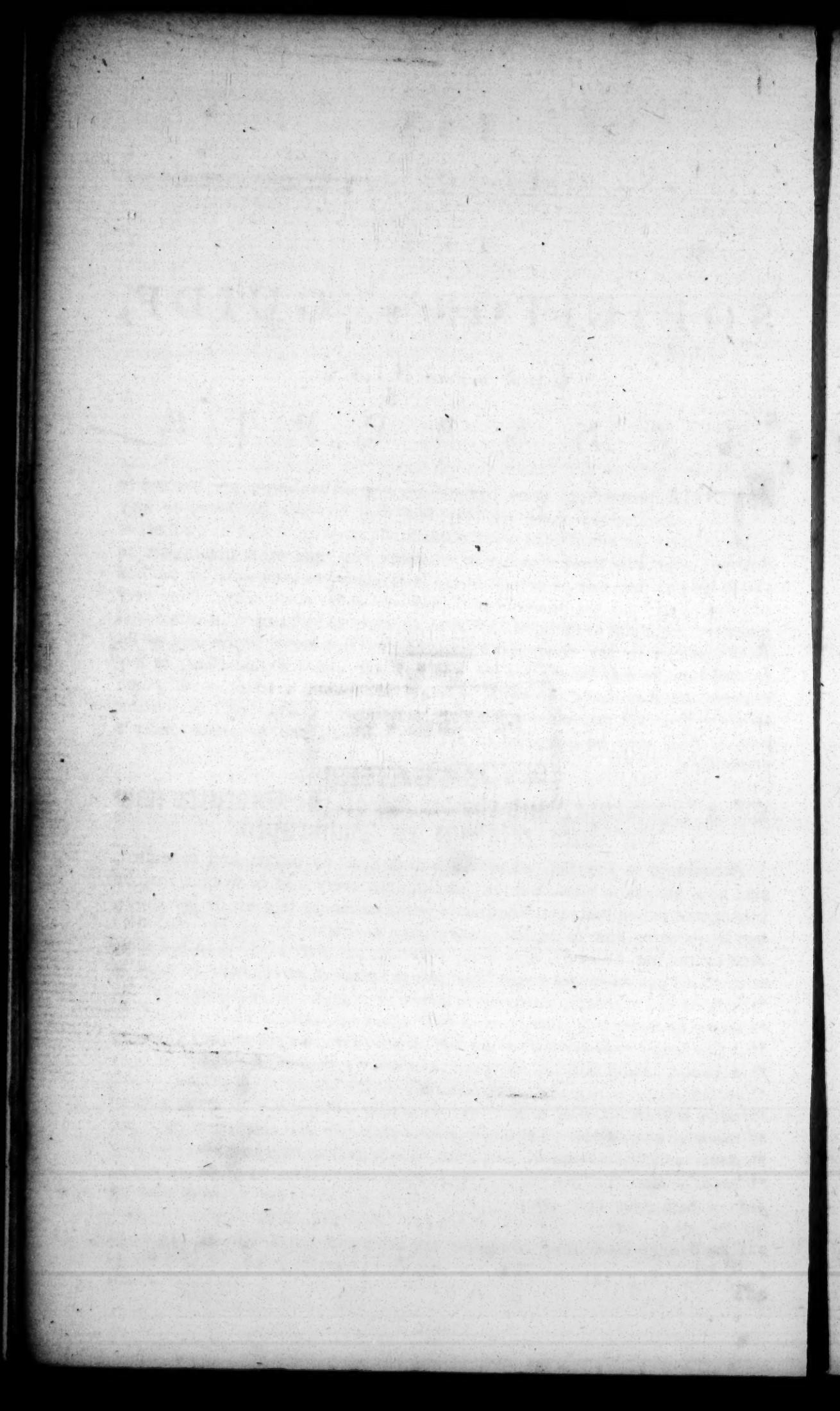
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THE  
SOLICITOR'S GUIDE,  
CONCERNING  
BANKRUPT.

THE proceedings upon commissions against bankrupts are become so common, that there are very few men in trade but have, or may have, occasion to be made acquainted therewith, either as creditors or debtors; especially those who live in this metropolis, and other great towns in the kingdom; therefore an extract of the laws relating to bankrupts, the method of proceeding, and the proceedings themselves under commissions, seem very necessary and useful to them, as well as to attorneys and solicitors; it is intended in this treatise to lay down those laws, so far, that every person may be informed how he may be affected by, and how act under a commission, in any concern he may have therewith, whether as debtor, creditor, or assignee; that the bankrupt may observe his duty and interest; and that the solicitor and his clerk may be instructed to act with readiness and propriety under a commission.

**Of a Bankrupt, and the Heads of the Statutes now in force relating to Bankrupts.**

A bankrupt is a person, whose bank or stock is so broken and exhausted, that he is obliged to break and fail; and signifies every man or woman that by buying and selling hath got other men's goods or money into his or her hands, and by secreting him or herself, endeavours to defraud his or her creditors: And by the stat. of 13 Eliz. c. 7. s. 1. 1 Jac. c. 15. sect. 2. is described thus, viz. "All and every person who shall use the trade of merchandize by way of bargaining, exchange, bartering or otherwise in gross; or by seeking his or her living by buying and selling; who shall depart his house, or absent himself, or suffer himself to be arrested for any debt, or other thing not grown due; for money delivered, wares sold, or other good consideration; or shall suffer himself to be outlawed; or go to prison, or fraudulently procure himself to be arrested, or his money or goods attached, or make any fraudulent conveyance of his lands, goods or chattels, whereby his creditors may be defeated in the recovery of their just debts; or being arrested for debt, shall lie in prison two months or more upon such arrest or detention, shall be adjudged a bankrupt." The 21 James 1. c. 19. sect. 2. hath other descriptions of a bankrupt, but they are declared void by 10 An. c. 15. sect. 1. See Atk. Rep. 142. Bur. Rep. 440.  
The statutes concerning bankrupts are the 34 & 35 H. 8. c. 4. 13 Eliz. c. 7. 1 J. 1. c. 15. 21 J. c. 19. 13 & 14 Car. 2. c. 24. 8 & 9 W. 3. c. 20.

*2. 20. 7 An. c. 12. 10 An. c. 15. 7 Geo. 1. c. 31. 5 Geo. 2. c. 30. 19  
Geo 2. c. 32. 24 Geo. 2. c. 57. 4 Geo. 3. c. 33, 36. 12 Geo. 3. c. 47.*

The 34 & 35 H. 8. c. 4. *sect. 5.* declares that if any debtor do withdraw himself out of the king's dominions to any foreign part, to the intent thereby to remain in defraud of his creditors, and does not return within three months after proclamation for that purpose duly made, such remaining abroad shall be deemed an act of bankruptcy.

This clause seems to have provided against a consequence not within the letter of the subsequent statutes; for those statutes only make it an act of bankruptcy to depart the realm with intent to defraud creditors; but if an insolvent trader should go abroad without such fraudulent intent, and with the knowledge and consent of his creditors, and should afterwards remain there, and become opulent, and pay no regard to his creditors; in this case it might be doubted, whether he were bankrupt within the description of these acts: but the clause abovementioned provides a remedy against such as having withdrawn themselves out of the realm, remain there with intent to defraud their creditors; and in this respect is more full than the subsequent statutes.

The 13 Eliz. c. 7. *sect. 2.* impowers the lord chancellor, upon complaint in writing against a bankrupt, to appoint comrs. to sell the bankrupt's lands, as well copyhold as free, annuities, goods, chattels, debts, &c. and by this statute creditors are to be sworn to the value of their debts, &c.

The 1 Ja. 1. c. 15. impowers the comrs. to assign the bankrupt's debts, &c. to the credrs. and proceed to execution though the bankrupt dies; and also that persons suspected of detaining any of the bankrupt's goods may be arrested; and still refusing to deliver them shall be committed; and that credrs. shall be received if they come in within four months; and that the comrs. shall render the bankrupt an account, &c.

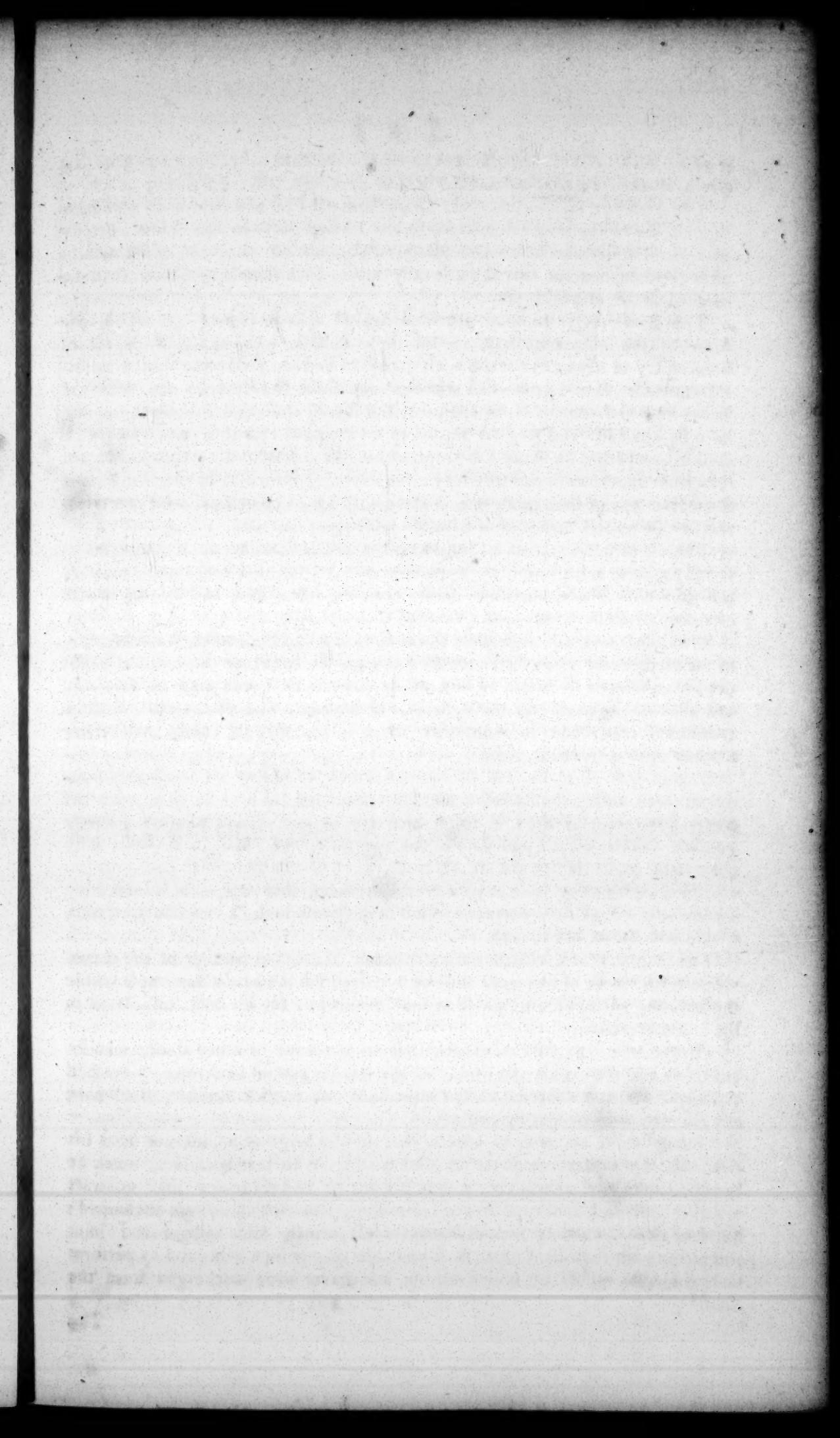
The 21 Ja. 1. c. 19. inflicts the punishment of pillory on bankrupts fraudulently concealing their effects, and gives the comrs. power to break open the bankrupt's house, chests, &c. for a discovery of goods: and another person's goods in the bankrupt's possession as his own to sell, &c. shall be disposed of by the comrs. &c. See 13 Ed. 1. St. 1.

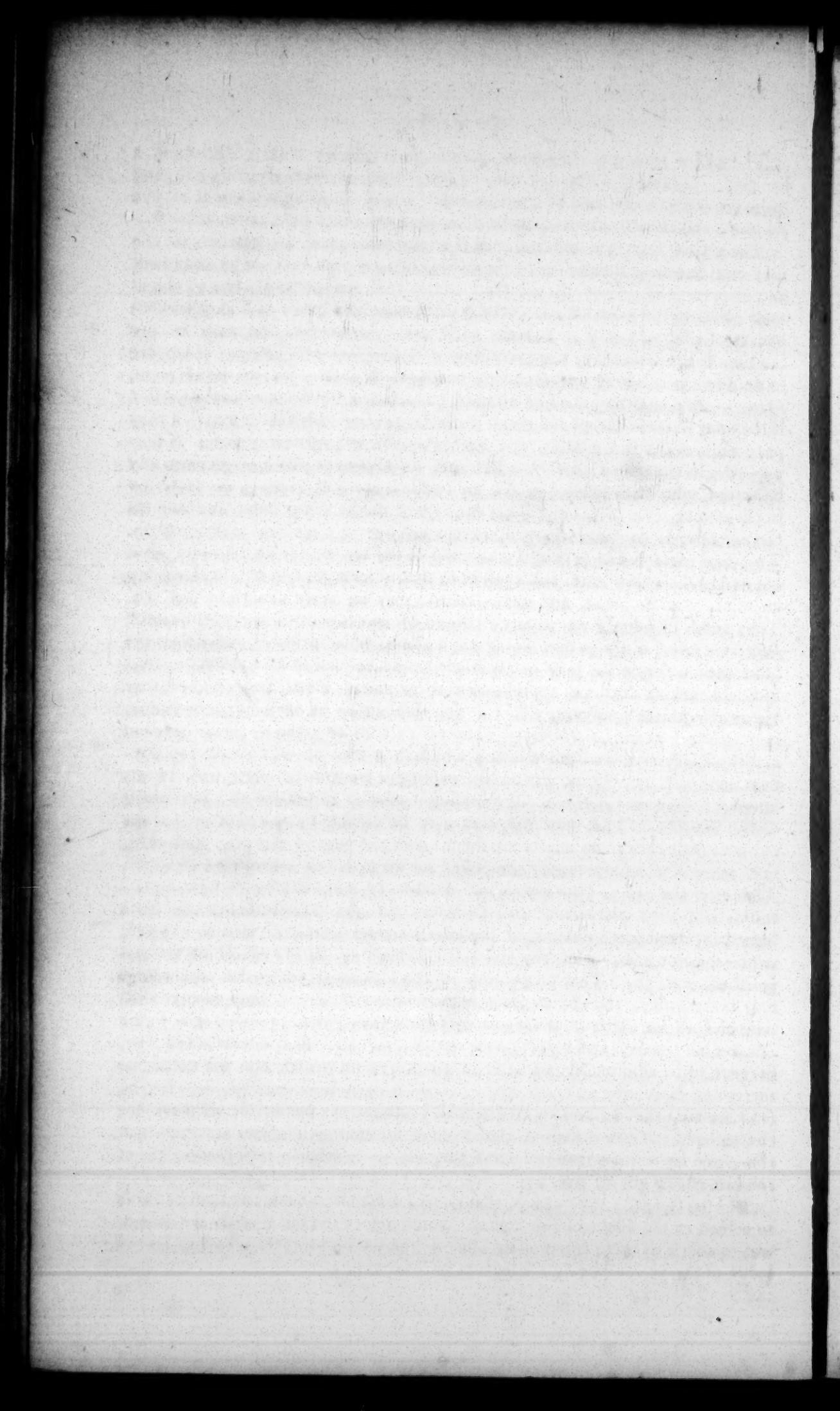
The 13 & 14 Car. 2. c. 24. *sect. 3, 4.* enacts, that no person adventuring money in the *East India company*, shall be judged thereby a merchant or trader, within any statute of bankrupts.

The 8 & 9 W. 3. c. 20. *sect. 47.* enacts, that no member of the corporation of the bank of *England*, shall be adjudged liable to be a bankrupt, within the meaning of any statute made against bankrupts, for his stock or interest in the said corporation.

The 7 An. c. 12. *sect. 5.* enacts, that no merchant or other trader whatsoever, within the description of any of the statutes against bankrupts, who shall put himself into the service of any ambassador or publick minister, shall have any protection or benefit by this act.

The 10 An. c. 15. *sect. 3.* enacts, that the discharge of a bankrupt from his debts, shall not discharge any other person who was partner with him, when he became bankrupt; or was then jointly bound, or had made any joint contract together with such bankrupt for the same debts, from which he was discharged; but that notwithstanding such discharge, such partner, joint obligor and joint contractor with such bankrupt, shall be liable to pay such debts and to perform such contracts, as if the said bankrupt had never been discharged from the same.





The 7 Geo. 1. c. 31. impowers persons having bills, notes, &c. upon a bankrupt, payable at a day to come, to prove them as debts presently due, and to be intitled to a dividend of the bankrupt's estate, allowing a discount of five per cent. and that bankrupts shall be discharged from such bills, notes, &c.

The 5 Geo. 2. c. 30. ordains, that if bankrupts do not, after notice in the Gazette, surrender themselves to the comrs. in forty-two days, to be examined, and discover and deliver up all their estates real and personal, or do conceal their goods to the value of 20*l.* they shall be adjudged guilty of felony without benefit of clergy, *sect. 1.* But the ld. chancr. ld. keeper, &c. may enlarge the time for surrendering, not exceeding fifty days further, *sect. 3.* They are to deliver up all books of accounts, writings, &c. on oath to the assignees, *sect. 4.* And that they shall be allowed 5*l.* per cent. so as not to exceed 200*l.* if they pay 10*s.* in the pound; and 7*l.* 10*s.* per cent. not above 250*l.* if they pay 12*s.* 6*d.* in the pound; and 10*l.* per cent. not exceeding 300*l.* if they pay 5*s.* in the pound, *sect. 7.* But that no advantage shall be given to any bankrupt who hath lost 5*l.* a day, or 100*l.* a year, at gaming, or 100*l.* by stock-jobbing, &c. *sect. 12.* That the body of the bankrupt only, and not his future estate, is to be discharged, except he pays 15*s.* in the pound, *sect. 9.* That four parts in five in number and value of the credrs. for no less than 20*l.* are to sign their certificates and consent to their discharge, &c. of which signing an affidt. is to be made, and other credrs. may be heard against it, *sect. 10.* That bonds or notes given to any credr. to consent to a certificate shall be void, *sect. 11.* And if the person issuing out a comn. have privately more than the other credrs. the comn. may be superseded, and he shall lose his debt, *sect. 24.* That bankrupts shall be apprehended on a comn. issued and certified, by virtue of a justice's warrant, *sect. 14.* and refusing to be examined, the comrs. may commit them, *sect. 16.* That notice shall be given to credrs. to meet and chuse assignees, and prove debts, which they may do without paying contribution, *sect. 25.* That persons discovering a bankrupt's estate shall be allowed 5*l.* per cent. *sect. 20.* Concealing trusts to forfeit 100*l.* and double value, *sect. 21.* That new assignees may be chosen by the credrs. that the old ones shall deliver up effects to them under the penalty of 200*l.* and costs, *sect. 30.* That assignees may compound for debts due to a bankrupt, *sect. 35.* That after the end of four months and within 12 months assignees are to account, and then a dividend shall be made, *sect. 33.* That there may be a second dividend in 18 months, if the effects are not wholly divided on the first, which shall be final, unless any law-suit is depending, or the effects are not disposed of, *sect. 37.* That on petition to the ld. chancr. &c. the proceedings may be recorded, and copies given in evidence, *sect. 43.* That comrs. shall take an oath for the faithful execution of their trusts, *sect. 43.* who are to be allowed 20*s.* a day, and nothing for expences, *sect. 42.* That attornies and solrs. bills are to be adjusted by a master in chancery, for which and his certificate thereof he shall have 20*s.* *sect. 46.* i.e. bills after assignees are chosen; for by same statute, the petitioning credrs. shall prosecute the comn. till assignees are chosen, and the comrs. shall at the meeting for chusing assignees ascertain such costs, and by writing shall order the assignees to reimburse such credrs. out of the first effects got in, *sect. 25.*

The 19 Geo. 2. c. 32. enacts, that no real credr. of a bankrupt shall be liable to refund to the assignees any money, which before the suing forth the comn. was in course of trade received by him of the bankrupt, before he had knowledge of the person's being a bankrupt or insolvent.

The 24 Geo. 2. c. 57. sect. 9. enacts, that where persons shall fraudulently swear or affirm before the comrs. or by affidavit. or affirmation, that a sum of money is due from a bankrupt, which shall not be really due, and shall, in respect of such fictitious debt, sign his consent to a certificate of such bankrupt's discharge from his debts, that unless such bankrupt shall, before the comrs. shall have signed such certificate, by writing by him to be signed and delivered to one or more of the comrs. or assignees, disclose the said fraud, and object to the reality of such debt, such certificate shall be void, and such bankrupt shall not be discharged, or receive any benefit or allowance, by virtue of 5 Geo. 2. c. 30. sect. 7. and by sect. 10. 24 Geo. 2. c. 57. where any credr. resides in foreign parts, his letter of attorney, attested by a notary public in usual form, shall be sufficient evidence of the authority, by which any person thereby authorized shall sign any certificate.

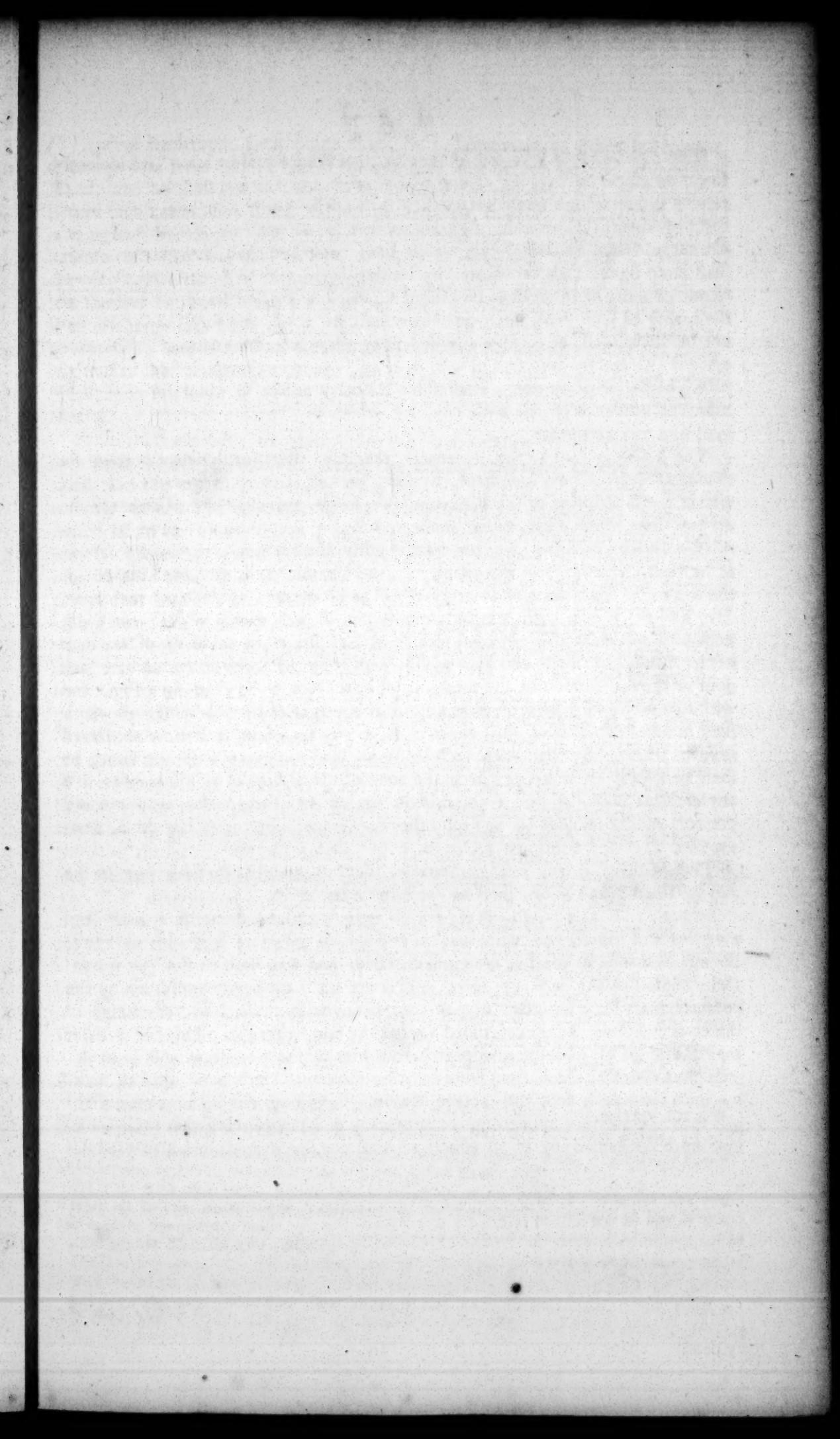
The 4 Geo. 3. c. 33. sect. 1. enacts, that any credr. (of sufficient amount for that purpose) of any merchant, banker, broker, factor, scrivener or trader, within the description of the bankrupt laws, having privilege of parliament, may, at any time, upon affidavit being made and filed of record in any court at Westminster by such creditor, that his debt is justly due to him, and that his debtor, as he verily believes, is a merchant, &c. within the bankrupt laws, sue out of the same court summons or an original bill and summons, against such merchant, &c. and serve him with a copy thereof, and if such merchant, &c. shall not within two months after personal service of such summons (affidavit of the debt having been duly made and filed as aforesaid) pay, secure or compound for such debt to the satisfaction of the creditor, or enter into a bond in such sum, and with two such sufficient sureties as any of the judges of that court out of which such summons shall issue, shall approve of, to pay such sum as shall be recovered in such action, together with such costs as shall be given with the same, he shall be adjudged bankrupt, from the time of the service of such summons, and any creditor may sue out a commission against any such person, and proceed thereon in like manner as against other bankrupts. See Atk. Rep. 200, 201. 12 Geo. 3. c. 47. continges 5 Geo. 2. c. 30. to Sept. 1779.

The 4 Geo. 3. c. 37. sect. 13. enacts, that no member or subscriber to the English linen corporation, shall be liable to be bankrupt.

By stat. 12 Geo. 3. c. 47. every person against whom a commission hath been awarded and issued, and who was in custody on or before 25th March 1772, for any debt due before said commission issued, and who hath or shall duly conform himself to the bankrupt laws, and is not nor hath been committed by the commissioners for contumacy or non-compliance with these laws, any judge of the court wherein the process issued against the said bankrupt, on his (*a*) petition may summons his plaintiff to appear before him to shew cause why such bankrupt should not be discharged from his imprisonment, (such bankrupt first making oath that such debt did accrue before the issuing out such commission) and such plaintiff not appearing, or appearing and not proving that such bankrupt hath concealed any of his effects, or hath not conformed himself to the laws

(*a*) Application to a judge or a baron in a summary way, is by summons, and to the great seal or master of the rolls by petition; it is singular that this distinction was not attended to by the legislature, however the practice on discharging under this very act hath always been by summons in the usual way.

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(b) against bankrupts, such judge shall, by (*c*) warrant or other instrument, discharge him from imprisonment for any debt due before the said commission issued, and he shall not be liable to be arrested for any debt due or contracted before such commission issued, subject nevertheless, in every other respect, to the laws against bankrupts, *sect.* 2. and if such bankrupt, so conforming, shall be hereafter arrested and held to bail, or taken in execution, for any debt due or accruing before the date of his commission, may after 40 days of his arrest, in like manner (*d*) petition any judge of the court wherein such process issued, who is to discharge such bankrupt in like manner, and on like terms and conditions, as aforesaid; and if he shall be afterwards arrested for any other debt also accruing before his commission issued, any judge of the court wherein the process issued, upon summons of proper party, may immediately discharge such bankrupt.

*Sect.* 3.

From these extracts, 'tis plain, that the laws relating to bankrupts are best seen from the acts themselves, where the reasons conduced to the making of them, and the mischiefs intended from time to time to be redressed, will necessarily evince the remedies to be administered are exceedingly good, and beneficial to the honest trader; and though the same laws under proper heads may be somewhat more fully set forth in the subsequent part hereof, yet we may observe here, that 'tis not the buying and selling of land, but of personal things that makes a man liable to be bankrupt; (*a*) nor is it buying only, or selling only, but it is *both buying and selling*; and every one that gets, or endeavours and seeks to get his living by buying and selling in trade, and merchandize, may be a bankrupt, on his failing therein (*b*): So an attorney may be a bankrupt by buying and selling in trade and merchandize (*c*), and though he is of no proper calling as a tradesman (*d*), yet he shall be considered as a *dealer and chapman* in trade and merchandize; farmers, graziers and (*e*) drovers are excepted out of the statutes, as buying and selling is not their only, or principal means of livelihood; so an innkeeper is not (*f*) within the statute, because, though he buys provision to be spent in his house, yet he does not properly sell it, but utters it to his guests at no certain price. So a taylor, as such, is not within the words of the statute, because he lives by making of garments, and not by buying and selling; a victualler, *as such*, cannot be bankrupt. *Bul. Tri.* at *Ni. Pri.* 39. *S. P.* determined in *C. B. Wils. Rep. C. B.* 382. *S. P. MSS. Rep. B. R. East. Term 7 G. 3. Sanderson v. Rolls.* yet these and all others are not so excepted but they may be liable to a bankruptcy by buying and selling; as where a taylor (*g*) buys cloth and sells it in garments, thereby seeking a profit by buying and selling such cloth; an (*h*) innkeeper buying wines, corn, &c. and a victualler selling large quantities of rum, brandy, &c. which are not consumed in his house; and such men are usually considered as *dealers and chapmen*.

A feme sole merchant in London may be a bankrupt. *Green, Spir. Bank. Laws,* 2d edit. p. 9.

If a merchant gives over trade, and afterwards becomes *non solvent* for money he owed while in trade, he is a bankrupt; but not for new debts, or old

(*b*) As the laws concerning bankrupts, are for as well as *against* them, "*Bankrupt Laws*" seems a more applicable expression than "*Laws against Bankrupts*."

(*c*) The same observation occurs here as we made on the word *petition*, for the word "*Warrant*" is peculiarly adapted to criminal and equity proceedings; *order* is in like manner applicable to the common law.

(*d*) See note (*a*) in preceding page.

(*a*) *Com. Dig.* 522. (*b*) *Cro. Car.* 549. *W. Jo.* 437. *pl. 3. Mar.* 34. *pl. 67. Atk.* *Rep.* 128. *ca. 72. id. 218. ca. 119.* 2 *Black. Com.* 474, 475. (*c*) See 8 *Mod.* 46, 47.

(*d*) *Cro. Car.* 549. *Salk.* 116. *Stra.* 513. 8 *Mod.* 48. *T. Raym.* 287. (*e*) *Trials at Nisi. Prius,* 37. (*f*) *Cro. Car.* 395. (*g*) *Read, Stat. Law,* 185. (*h*) 7 *Vin. Abr.* 57. *pl. 15. debitis*

debts continued on a new security. *Vent.* 5, 29. *Comb.* 463. *12 Mod.*, 159.  
*Lord Raym.* 287.

Where there are two partners in trade, and one breaks (by any separate dealing out of the partnership trade) the other shall not be charged with the whole, but the estate belonging to the joint trade ought to be divided. *Mod. Rep.* 45. And if one of them becomes bankrupt, it will not affect the other, *3 Salk.* 61, but where by the dealing of one of them credit is given to both, they both become bankrupts; so acts discharging a bankrupt, shall not discharge any partner in trade, or one jointly bound with the bankrupt. *Darw. Abr.* 686. *10 An. c. 15. sect. 3.*

The acts of bankruptcy are set forth by the statute, but 'tis to be observed, that a man's departing from his house, or absenting himself, &c. must be with an intent to (i) defraud his credrs. for on a man's going away, a meer suspicion that he is gone with that intent; or the report of his neighbourhood 'tis so, is not sufficient proof of a bankruptcy, unless length of time or other circumstances concur; for the man may be gone upon business, and suspected wrongfully; a general report may be a false report.

The court of *Common Pleas* was unanimous, that a person, who had been arrested, and whose word the Sheriff's officer had taken to put in bail, *kept at home*, and declared he did *so keep at home*, to avoid the consequences of the former arrest, had by this conduct committed an act of bankruptcy. *Barnes's Notes C. B.* 4to. 160.

If a man goes sometimes at large, so that he may be met with some time or other, it will excuse him (k); but if he keeps his own house, or in the house of another, or on ship board for fear of being arrested; or being at home orders himself to be denied to a \* credr. or having an execution + privately in his house, &c. are good proof of a bankruptcy.

The comrs. have a power to adjudge a man a bankrupt, on the oath of any one witness to an act of bankruptcy; yet in an action, the jury must find whether he was so, or not; for if a comn. is not duly obtained against a person, he may traverse it by saying he is not a bankrupt. *8 Rep.* 121.

And where a comn. is not duly obtained, any one or more of the bankrupt's credrs. may join and supersede it; as if a bankrupt after a comn. issued pay the person who sued it out, or deliver him goods or security for his debt, whereby he may have more in the pound than the other credrs. such payment, &c. is an act of bankruptcy, whereby such comn. may be superseded, and another awarded, and the person receiving such goods, or other satisfaction, forfeits as well his debt, as what he received, which he must pay back and deliver up (or the full value thereof) to be divided amongst the other credrs. *5 Geo. 2. c. 30. sect. 24.* See *2 Black. Com.* 480.

No commission shall be granted, unless the debt of one creditor amounts to 100 l.; of two, to 150 l.; of three or more, to 200 l. *Stat. 5 G. 2. c. 30. S. 23.*

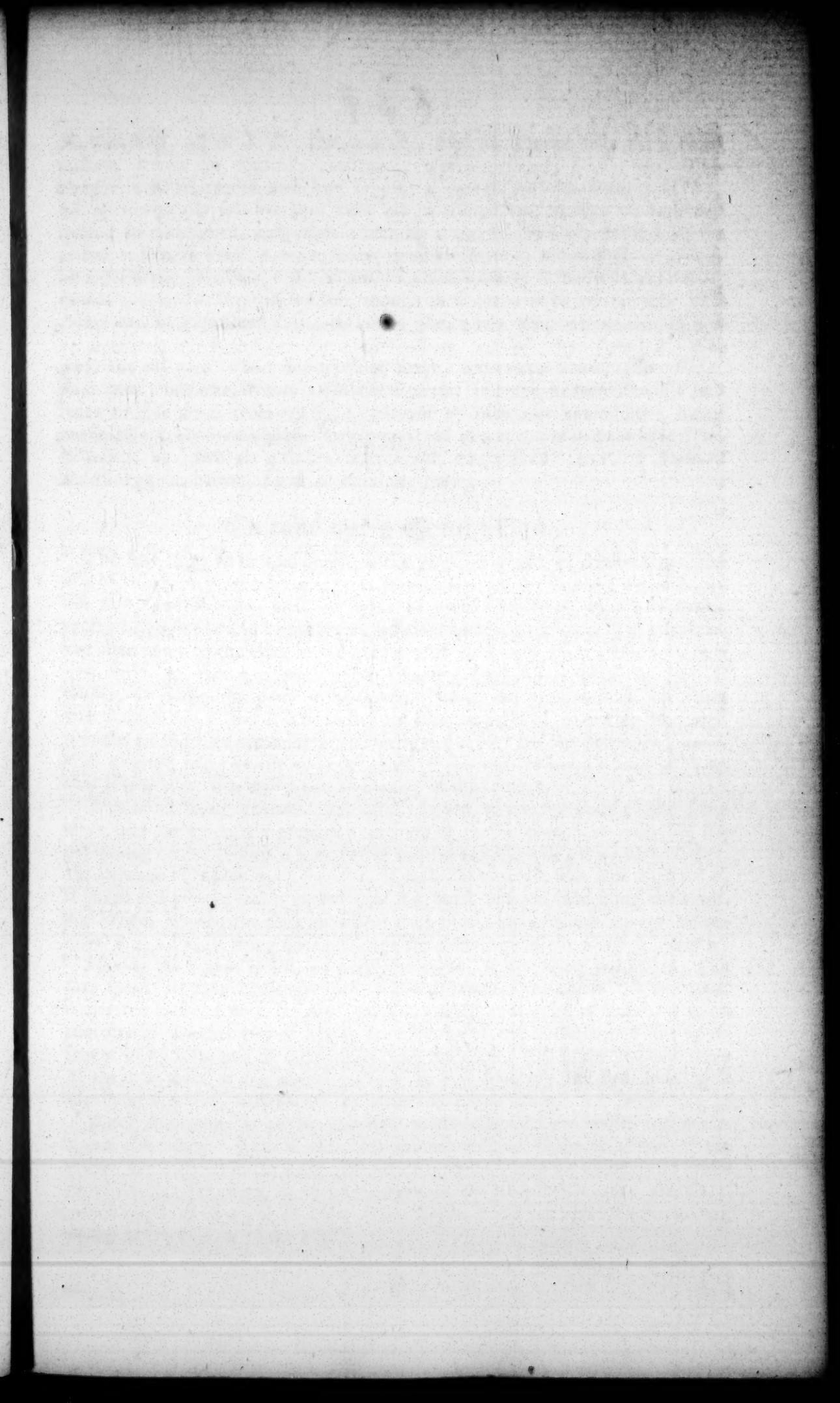
The assignee of a bond cannot take out a commission, nor a creditor whose debt is above six years standing. *Green Spir. Bank Laws*, 2d edit. p. 63. Indorser of a promissory note, after act of bankruptcy, may be petitioning creditor. *Wils. Rep. C. B.* 135. *Green* 63, 64. *2 Stra.* 1042. *Cas. Temp.*

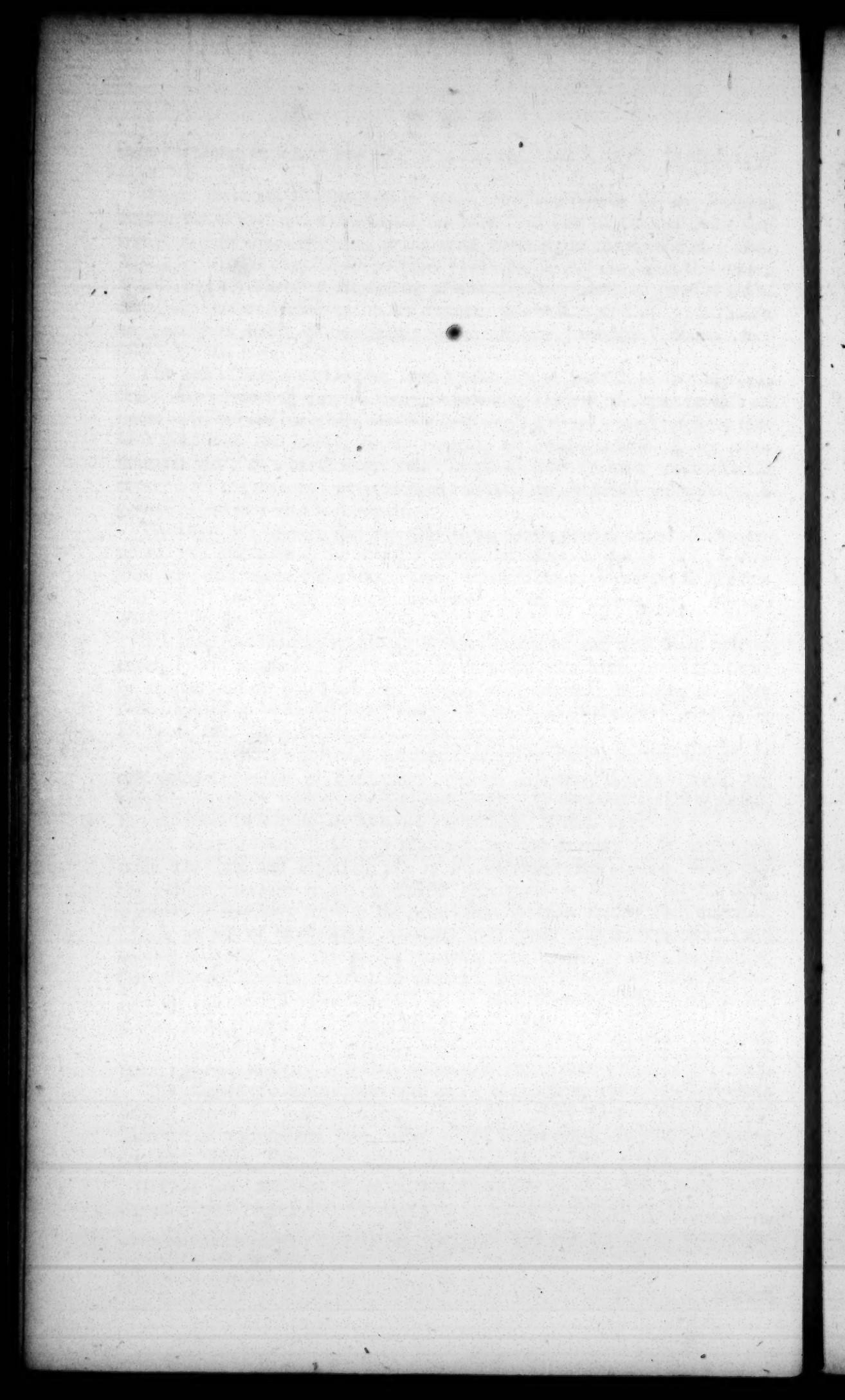
(i) *Palm.* 325. *Keb. Rep.* 11. *pl. 25. Rep. Temp. Holt.* 95. *pl. 5. Salk.* 110. *pl. 6. Atk.* *Rep.* 77. *id.* 201. *c. 104. Bur. Rep.* 43, 472. (k) *Cro. Eliz.* 13. *pl. 6.*

\* It must be proved, that the person to whom the party was denied was a creditor, for which purpose it is necessary to name him. By *Lee Cb. Jus. Bul. Tri. at Ni. Pri.* 40. being denied to one who came on behalf of a Creditor, is not sufficient, *Green* 32.

+ *2 Black. Com.* 478.

*Hardw.*





*Hardw.* 267. all to *S. P.* Executor of a bankrupt cannot take out a commission, unless his testator's bankruptcy was superseded, *Green* 64. The obligor in an arbitration bond can support a commission of bankrupt, *id.* 67, 68. an attorney or solicitor may take out a commission, though he hath delivered no bill signed, and without waiting a month, both which he must do at law. Where debt is due to wife as administratrix, husband alone cannot be a petitioning creditor. A creditor who hath bankrupt's body in execution, cannot petition, *id.* 69. Creditors, though their demands be not payable till a future day, may. *Stat.* 5 *Geo. 2 c. 30. sect. 22.* a debt on account, though not liquidated, is a foundation for a commission. 2 *Ves. Rep. Temp. Hardw.* 327. the obligees in bail bonds, joint bonds, indemnity bonds, [See *Palm. Rep.* 325.] in bottome or *respondentia* bonds, and the underwriters in policies of insurances seem all legally intitled to take out commissions, being confessedly creditors on bonds for payment of money. See and consider *Stat.* 7 *Geo. c. 31. sect. 1.* 5 *Geo. 2 c. 30. sect. 22.* 2 *Stra. 1211.* 2 *Baruard B. R.* 255. and *Stat.* 19 *Geo. 2 c. 32. sect. 2.*

### To take out a Commission.

The first thing to be considered, is the proof of an act of Bankruptcy; the acts of bankruptcy are very many, as may be seen by the statutes; and difficulties may, and do often arise for want of proof; however, an act of bankruptcy being fixed on to be proved as sufficient within one or more of the statutes, you then apply to the clerk in the secretary of bankrupts office (which office is now kept at No. 5. *Symond's-Inn Chancery-lane*) for a bond to the ld. chancr. to prove the party a bankrupt, (which the clerk will fill up from your instructions,) (but it is apprehended that the right of preparing this bond is in the clerk to the commission) and charges 5 s. the bond the petitioning credr. must execute, and likewise make an affidt. of his debt before a master in chancery if in town; or a master extraordinary, in the country.

This bond being executed, and affidt. sworn, you carry them to the same office, and the clerk will prepare a petition to the ld. chancr. on behalf of the petitioning credr. (which is a matter of course) and likewise get a comm. sealed, the expence of which is 4 l. 6 s. 8 d. if sealed at a public seal, and 6 l. 8 s. 8 d. if sealed at a private seal; exclusive of the bond, petition, and filing the affidt. and besides which, the clerk expects 5 s. as usual, but will not charge or demand it as a fee, it being none; though the comrs. generally allow it in costs.

Having the comm. sealed, or whilst the comm. is preparing and sealing, you may speak to your messenger to be ready to summon the comrs. The comm. is directed to five comrs. (as they come in course in the list of comrs. if to be executed in *London*) two of whom are esquires of the quorum, and the messenger being informed of their names from the comm. will summons any three of them to meet as can attend, as soon as you appoint: the first meeting is usually at a tavern, coffeehouse, or other convenient place.

But if the comm. is to be executed in the country, the petitioning credr. names the comrs. And in this case the names and places of abode of the comrs. are inserted in the comm. for which purpose it may be necessary to make an affidt. that the comm. is to be executed in the country, naming the place, which ought to be 15 or 20 miles from *London*; and put the intended comrs. names at the bottom of the affidt.

## Of the first Meeting.

The first meeting is had for the comrs. to find by proof an act of bankruptcy committed, to see the petitioning credr's debt proved, and to declare the party a bankrupt accordingly; therefore the solr. is to attend with the comn. by which they are authorized to act, and with the witness, or witnesses, to prove the bankruptcy; but if the petitioning credr. lives in the country, or cannot attend this sitting to prove his debt, the solr. must have, and exhibit to the comrs. an office copy of the affidavit of his debt filed in the secretary's office.

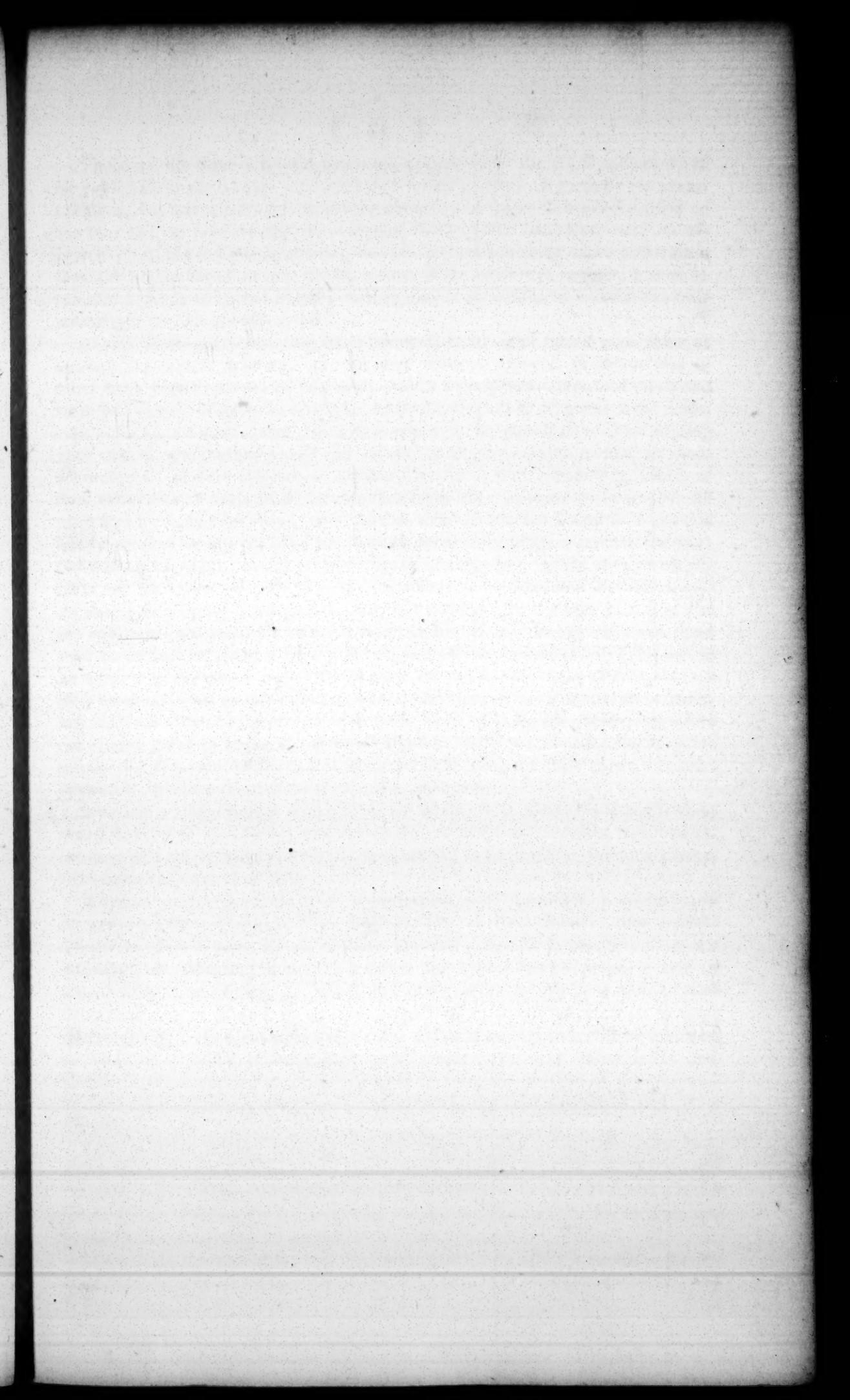
The comrs. being met, the solr. produces the comn. upon which the three comrs. present administer an oath to each other for the faithful execution of their trust; then they proceed to take the proof of the petitioning credr's debt if present, or by the office copy of his affidavit, then exhibited to them; then they proceed to examine the proof of the bankruptcy, which is reduced by the solr. (before hand generally) into a form of deposition, and having read to, and examined the witness or witnesses as to the facts contained therein, they will swear him or them to the truth thereof; this done, they sign their names to the memorandums of each proceeding; this being finished the solr. pays them 20 s. a piece, and seeing that the proceedings are signed by all the comrs. tacks them together in order; in the mean time the messenger present fills up proper warrants for seizing the bankrupt's effects, advertising the bankruptcy in the *Gazette*, and for the bankrupt to appear and surrender himself, &c. which warrants the comrs. sign, having fixed the days for that purpose; it is left to the messenger to pay for the room (3 s.) and advertise the bankruptcy; and immediately to go and seize the bankrupt's effects, and put a man in possession of the same with the comrs. warrant. But in case the comn. is executed in the country, then, on the person's being found a bankrupt, the solr. sends up an advertisement to be published in the *Gazette*, a form of which may be taken from almost every *Gazette*; this copy of the advertisement must be first carried to Mr. Pye Donkin, the clerk of comns. of bankrupts, who will certify thereon that a comn. against the person is sealed; for which you pay 2 s. 6 d. then carry it to the printer to be published (12 s. 6 d.) for this certificate is the printer's authority on country comns.

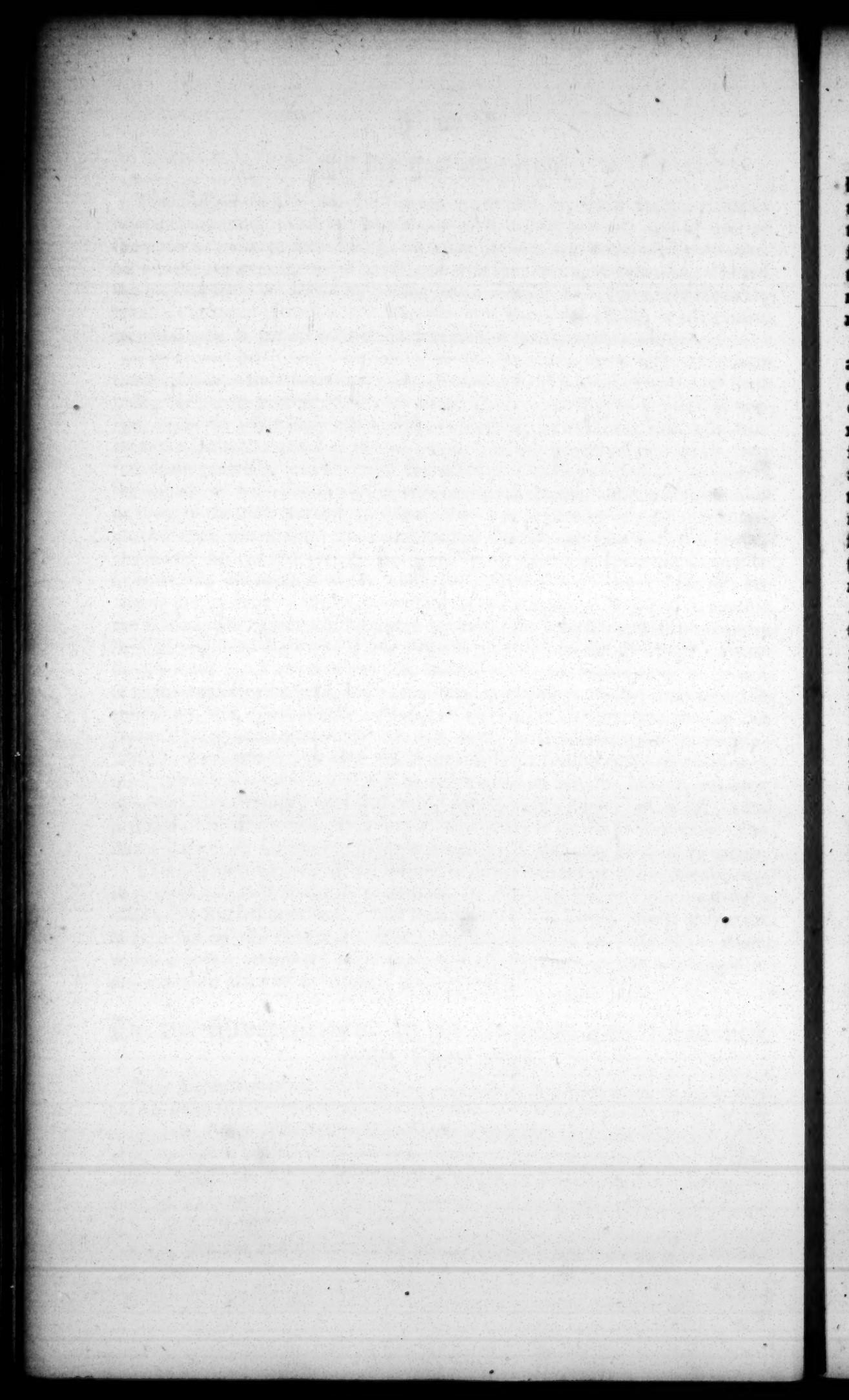
This first meeting, and till the seizure, is usually carried on with great secrecy, to prevent any suspicion, and concealing, or carrying away of the bankrupt's effects, by himself or others. And sometimes at this sitting, where an extent is expected on the bankrupt's effects, an assignment is required to be made, which is only a temporary assignment, and usually made to the messenger in order to take place of an extent. See Appendix.

## Of the Advertisement in the Gazette, and three first public Meetings.

The Advertisement in the *Gazette*, is to declare the bankruptcy, and to require the bankrupt to surrender himself to the comrs. or the major part of them, on the three several days therein named, and make a full discovery and disclosure of his estate and effects; when and where the credrs. are to come prepared to prove their debts; and at the second meeting to choose assignees; and at the last fitting the bankrupt is required to finish his examination, and the credrs. are to assent to, or dissent from the allowance of his certificate. See p.

\* This last fitting must always be on the 4<sup>th</sup> day from the comns. appearing in the *Gazette*. The other meetings at Guildhall are fixed upon at the discretion of the committee.





These are the three principal meetings, appointed by the act of parliament to be published by the comrs. the business of which is partly set forth by the advertisement, but not wholly so; for other business may be, and is usually done on the two last, to save trouble and expence, both by the bankrupt, and his assignees. At the first public meeting there is seldom any thing more to be done than the taking depositions of credrs. debts; if the bankrupt appears, a memorandum is made of it, and thereby further time is given him to make his examination; so there is if he does not.

At the second public meeting, after taking depositions of such credrs. debts as appear, the credrs. who have proved their debts to be 10/. or above (for no other has a vote for choice of assignees) consult among themselves, and chuse one or more, usually of the greatest credrs. to be the assignee or assignees of the bankrupt's effects; and such credrs. set their names to a memorandum of their making such choice, and thereby request the comrs. to assign the same to him or them accordingly; and the assignee or assignees signs his or their names thereunder, of their acceptance of such trust; if the bankrupt then appears to surrender, he must sign his surrender, and crave further time to the last sitting to make his final examination and discovery. At this second meeting, likewise, the solr. (who often knows who will be the assignee or assignees) should have an assignment of the bankrupt's effects ready ingrossed, to be executed by the comrs. At this second sitting likewise 'tis usual and necessary for the solr. who sued out the comm. to make out his bill of costs (inclusive of this sitting) that the same may be settled and allowed by the comrs. and paid on behalf of his client, before he parts with the comm. out of his hands; for the assignees may afterwards employ some other attorney to act for them under the com'n; and, as the petitioning credr. is obliged to prosecute the comm. until assignees are chosen, therefore the comrs. are impowered to settle and allow his bill, and to order the assignees to pay the same out of the first effects that shall come to their hands. Subsequent bills should be settled by a master in chancery.

The last or third public sitting is for the bankrupt to finish his examination, and discovery of his effects; and the credrs. to assent to, or dissent from the allowance of his certificate; but depositions are still to be prepared for such credrs. who come to prove their debts.

The bankrupt, upon finishing his examination, must surrender up what money he has in his pocket, watch, silver, buckles, &c. to the assignees; they are seldom so cruel as to keep all his money, but will return it in proportion to the quantity; at this sitting it may be prudent for him to have a proper person to attend with his certificate, to request such of his credrs. to sign it, as have proved debts to the value of 20/. or upwards respectively; and to witness their signing; one's signing, sets an example to the rest; a fair meaning man will be ashamed to refuse it in public, without some good reason; and may better shun and scruple it, when applied to alone; besides it saves the trouble of going round to all of them separately afterwards, and forwards the same so that he may get it allowed.

One or more further meetings of the comrs. are often requisite to be had, either for making a dividend, or other purpose; notice is to be published in the Gazette, and 21 days notice given of the meeting (if it be for a dividend), if the bankrupt has occasion for the comrs. to certify the great seal of his conformity, he must have a meeting on purpose at his own expence.

It need not be observed, that for every proceeding under a comm. a proper memorandum is to be made; the proceedings or memorandums are now reduced

to set forms, and are usually prepared by the solr. against every meeting of the comrs. which they will then examine and settle, if not right. To save that trouble, often given by an unexperienced solr. and to enable him more readily, and with ease to act under a comn. a general form of almost all such proceedings are here offered (they having passed examination) as necessary to be looked upon and consulted: for as they are all declarative of the business they intend, they are of themselves instructions to clerks to solrs. how to prepare themselves against every sitting of the comrs. But as this treatise is intended to be of use to men in trade, as well the bankrupt, his assignees and credrs. as to the solr. and his clerk; 'tis necessary to add something more relative to each of them from the several statutes now in force concerning bankrupts; therefore first,

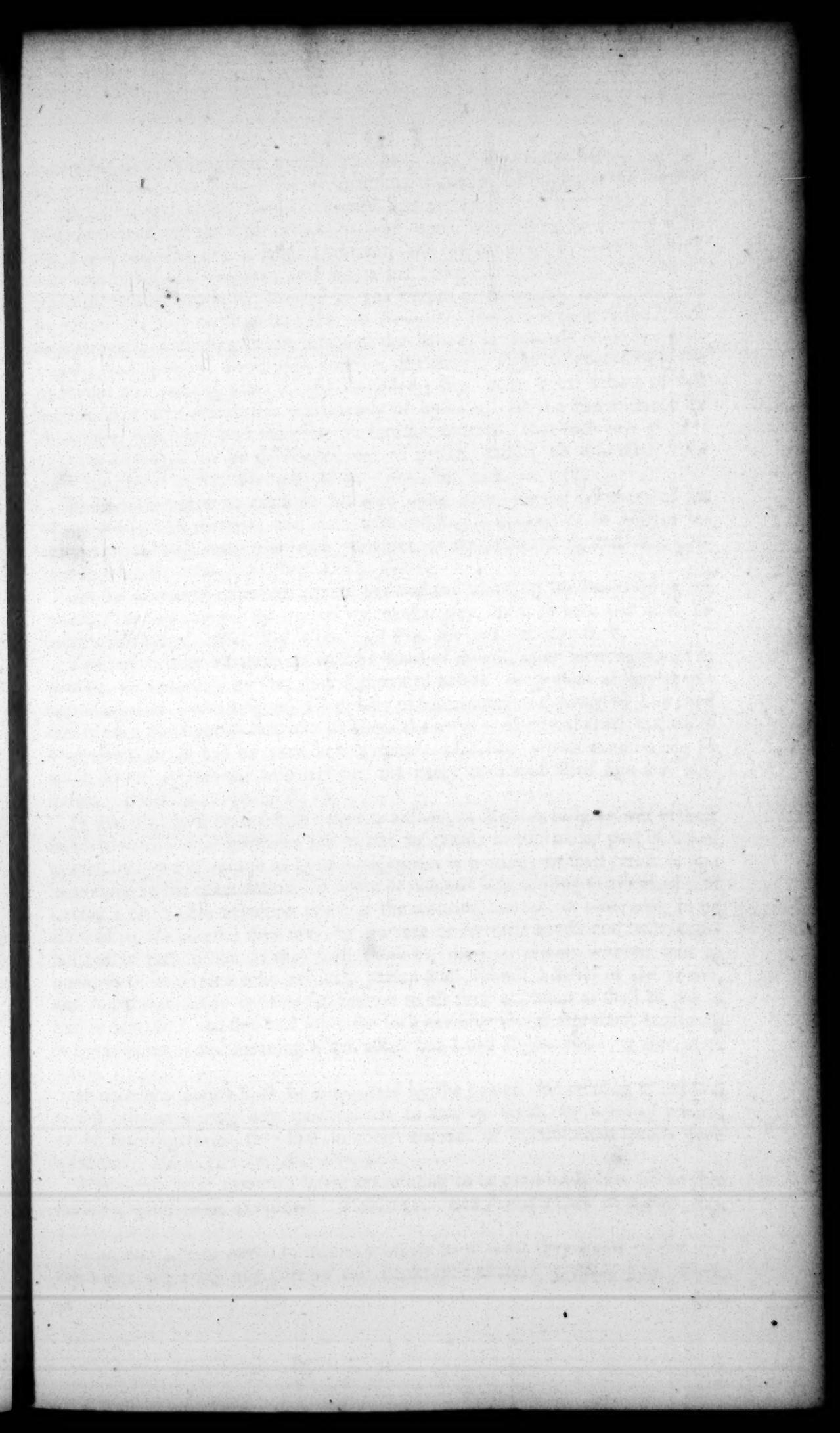
### Of the Commission and Commissioners Power.

The ld. chanr. &c. upon complaint in writing against a bankrupt, which is usually made by petition, as before prescribed, must by comn. appoint such persons as to him shall seem good; who, or the major part of them, may at their discretion, take such order with the body of such person by imprisonment, also with his lands, as well copyhold, as freehold, which he had in his own right before he became a bankrupt; and also with such lands as such person hath purchased for money, or other recompence jointly with his wife, or child, or to the only use of such offender; or for such use or title as such offender then shall have in the same, which he may depart withal; or with any person of trust to any secret use of such offender; and also with his money, goods, merchandize, and debts; and cause the said lands, &c. to be appraised to the best value, and by deed indented to be inrolled sell the said lands; and of all deeds touching the same, belonging to such offender; and also of all fees, offices, goods and chattels; or otherwise to order the same for satisfaction of the credrs. to every of the credrs. a portion rate like according to their debts; and every direction, and other thing done, by the persons so authorised, shall be good against the said offender, his wife, heirs, children, and such persons as by such joint purchase with the offenders shall have any estate or interest in the premises; and against all other persons claiming by, from, or under such offender; or by acts done after such person shall become bankrupt; and also against the lords of manors, whereof the said copyhold lands are holden, provided that every person, to whom such sale of copyhold lands shall be made, shall before they take any profit of the same, agree with the lords of manors for such fines, as have been accustomed to be paid; and upon such agreement the lords at the next court are to admit, &c. 13 Eliz. c. 7. sect. 3.

The comrs. may examine the bankrupt upon interrogatories, touching the lands, goods, debts, books of account, and such other things as may tend to disclose his estate, or secret grants, and eloining of his lands, goods, money, and debts, as they think meet. 1 Jac. c. 15. sect. 9. 5 Geo. 2. c. 30.

They may examine as well by word of mouth as on interrogatories in writing, every bankrupt, touching all matters relating to his trade, dealing, and effects, and reduce into writing his answers had or taken before them as aforesaid, which examination, so reduced into writing, he shall sign and subscribe. 5 Geo. 2. c. 30. sect. 16.

A. was declared a bankrupt, and the comrs. being informed, that he was imbeziling and concealing his effects, and fraudulently conveying away and alienating



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nating his estate, thought it necessary to have him before them before the first day appointed in the *Gazette* for his examination, and accordingly, at the request of the petitioning credr. they summoned him personally to attend them, to be examined touching the said complaint, and upon his refusing to comply with the summons, they got a judge's warrant, and the bankrupt by virtue thereof was committed to *Newgate*; and upon his being brought before the comrs. pursuant to their warrant, directed to the keeper of *Newgate*, and refusing to be examined, they recommitted him to *Newgate*, there to remain without bail or mainprize, according to the intent of the statutes in that case made and provided; and upon the bankrupt's petition, the comrs. right of committing the bankrupt was (among other things) contested; but, upon great debate of this matter, ld. chanr. *Hardwicke* was clearly of opinion, that the commitment by the comrs. was legal, and therefore his lordship ordered, that such part of A.'s petition as prayed to be discharged out of prison, should be dismissed. *Ex parte Lingood.* 2 *Eq. Abr.* 99. pl. 8. *Atk. Rep.* 240. *ca.* 131.

They have power to examine his wife upon oath, for the discovery of his estate, goods, and chattels; and such wife refusing to appear, or to answer interrogatories, shall incur the same penalties, as are provided against such persons in the like cases. 21 *Jac. c.* 19. *sect.* 6.

But she cannot be examined against her husband touching his bankruptcy, or whether he had committed any act of bankruptcy, or as to how and when he became bankrupt. *Wil. Rep.* 610. 12 *Vin. Abr.* 11. pl. 28. S. P.

The comrs. may examine as well by word of mouth, as on interrogatories in writing, all and every person, duly summoned before, or present at any meeting of the comrs. touching any act or acts of bankruptcy committed by him; and also to take down, or reduce into writing, the answers of verbal examinations of every such person had or taken before them as aforesaid, which examination so taken down, or reduced into writing, the party examined shall sign and subscribe. 5 *Geo. 2. c.* 30. *sect.* 16.

In case any such person shall refuse to answer, or shall not fully answer to their satisfaction all lawful questions put to him by them, or the major part of them, as well by word of mouth as by interrogatories in writing, or shall refuse to sign and subscribe his examination, so taken or reduced into writing as aforesaid (not having a reasonable objection either to the wording thereof, or otherwise, to be allowed by the comrs.) they may, by warrant under their hands and seals, commit him to such prison as they shall think fit, there to remain without bail or mainprize, until such time as such person shall submit himself to the comrs. and full answer make to their satisfaction to all such questions as shall be put to him as aforesaid, and sign and subscribe such examination as aforesaid, according to the true intent and meaning of this act. See *Lord Raym.* 100. 2 *Bur. Rep.* 1125.

In case any person shall be committed by the comrs. for refusing to answer, or not fully answering any question put to him by them, by word of mouth, or on interrogatories, they shall in their warrant of commitment specify such questions. *Same sect.* 17. *Atk. Rep.* 200.

The comrs. may commit a bankrupt refusing to be examined, &c. till he does submit himself to be examined. *Salk.* 151. See *Perrot's Case* in 2 *Bur. Rep.* 1123, 1216.

The comrs. have power to examine others as to what they know of any person carrying away any part of the bankrupt's estate. 5 *Mod.* 309. *Comb.*

391. *Ld. Raye.* 467. *Com. Rep.* 80. *Ses. Cas.* 335. 2 *Stra.* 880. *Barnard K. B.* 399.

The comrs. have power to sell, grant, and assign the bankrupt's estate, and effects; but they cannot bring an action; for their assignees must generally bring all actions. *Mad. 30.*

All the goods and chattels of a bankrupt, which he was possessed of at the time of his becoming a bankrupt, may be sold by the comrs. notwithstanding the bankrupt sell them in market overt; for the sale of the comrs. shall have relation to the first act of bankruptcy: but no debtor of a bankrupt shall be in danger for paying a debt due to a bankrupt, before he had notice that he was a bankrupt. 1 *Jac.* 1. c. 15. 2 *Sborw. Rep.* 522. 7 *Vin. Abr.* 108. 2 *Eg. Cas. Abr.* 396. pl. 3. *Ath. Rep.* 127. 157.

Sale of goods by a bankrupt, after an act of bankruptcy, may be avoided by the comrs., and they may in this case bring trover for the goods, or debt or assumption for the value. 3 *Salk.* 69. But such buyer shall afterwards come in as a credr. But see 19 *Geo. 2. c. 32.* *Bur. Rep.* 31.

The credrs. have a right to the bankrupt's goods by the act of bankruptcy, and thereby they are bound; though until assignment by the comrs. the property is not transferred out of the bankrupt. *Salk.* 108. Therefore a credr. being in possession of the bankrupt's goods by virtue of a *Fi. Fa.* upon a judgment entered up after an act of bankruptcy proved, must waive the same, and come in under the com'n.

The comrs. are to sell all the bankrupt's lands in fee, for life, or years, and it will be binding against the bankrupt and his issue.

If a bankrupt hath lands in right of his wife, it may be sold during the coverture; but the dower of a bankrupt's wife cannot be sold, otherwise if she marries one that is a bankrupt. *Wood Inst.* 327. *Quare.*

They may sell all entailed lands in possession, reversion, or remainder; except entailed in the crown, of the gift of the king; and this shall bind the issue in tail, and all others which a common recovery might cut off, *Stat.* 21 *Jac.* c. 19. *sects.* 12.

If a bankrupt grants his lands or goods in the names of other persons, the comrs. notwithstanding may make sale of them, but not lands, &c. conveyed bona fide before the party became a bankrupt. *Stat.* 13 *Eliz.* c. 7. s. 12. *Mar.* 594. pl. 805. *Mar.* 34. pl. 67.

Lands held by a bankrupt in joint tenancy, may be sold as to the moiety. *Ath. Rep.* 93. *ca.* 41. See *Bur. Rep.* 472. also lands devised to a bankrupt may be sold.

The comrs. have power to sell lands mortgaged, on tender and payment of the mortgage money. 2 *Rep.* 25. *Com. Dig.* 539. *Cro. Car.* 550.

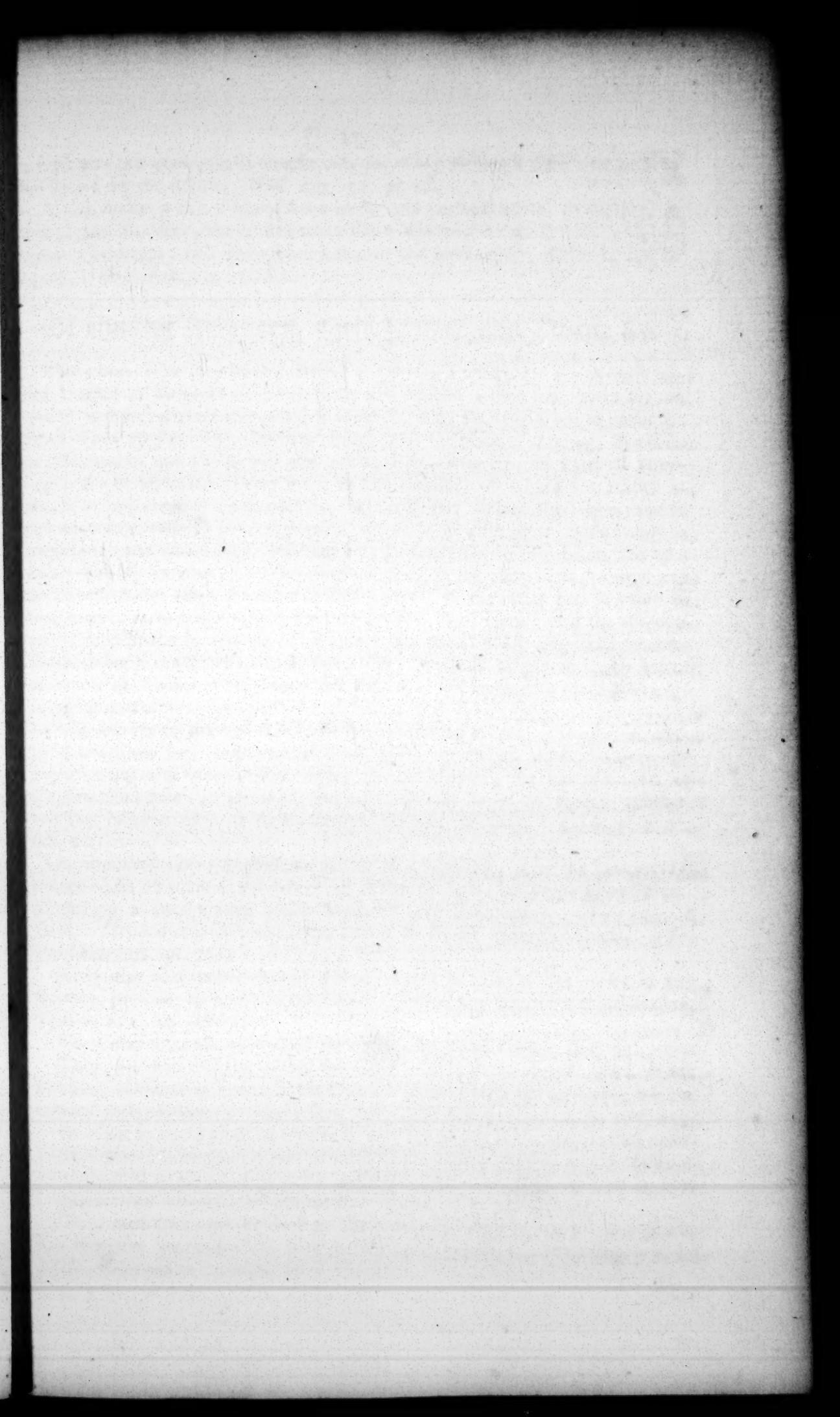
Offices of inheritance may be sold, but not offices of trust annexed to the person for life. *Ath. Rep.* 210. *ca.* 217. *id.* 213.

If a bankrupt commits felony, his lands shall not escheat, but the comrs. may sell; and his credrs. shall have his goods, not the king. 5 *Geo. 2. c. 30.*

The sale of bankrupt's lands by the comrs. must, according to the statute, be by deed of bargain and sale inrolled. And

No purchase of lands bona fide sold, shall be impeached, unless the com'n. of bankruptcy be sued out within five years, after a man becomes a bankrupt.

Where one is seized of lands in fee, owes a debt by statute, and afterwards becomes a bankrupt, and the credr. by statute extends the lands, then a com'r.



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is sued out, this credr. shall come in only *pro rata*; although there were lands in fee bound by the statute. *Will. Rep.* 92. pl. 18.

A man makes a bill of sale of some lands, and personal estate, to another, in trust to pay his debts; the trustee takes the whole into his possession, and becomes a bankrupt; this estate is not liable to the bankruptcy, either in law or equity. *Will. Rep.* 314. pl. 81.

## Of chusing Assignees, their Power and Duty, &c.

The comrs. after they have declared the person a bankrupt, are to cause notice thereof to be given in the *Gazette*, and appoint a time and place for the credrs. to meet to chuse assignees; at which meeting the comrs. are to admit the proof of any cred'r's debt, that lives remote from the place of meeting, by affidt. or affirmation; and also permit any person duly authorized by letter of attorney (oath or affirmation being made of the execution of it before a master in chancery ordinary or extraordinary, or *viva voce* before the comrs. and in case of credrs. residing in foreign parts, on affidt. or affirmation made before a magistrate, and which shall, together with his letter of attorney, be attested by a notary public) to vote in the choice of assignees, in the place of such credr. and the comrs. are to assign the estate to such persons, as the major part in value of such credrs. according to the debts then proved, shall chuse; and the assignees are to keep books of account of all money and effects which they shall receive; to which book the credrs. to have free resort; no credr. or person in his behalf to vote in the choice of assignees whose debt does not amount to 10*l.* *5 Geo. 2. c. 30. sect. 26, 27.*

Assignees are to pay and reimburse the petitioning credr. *5 Geo. 2. c. 30.*

Where there hath been mutual credit given, or mutual debts between the bankrupt and any other person, before the bankruptcy, the commissioners or assignees shall state the accompt, and one debt may be set off against another, and the balance only of such accompt, claimed or paid. *5 Geo. 2. c. 30. sect. 28.*

A promissory note indorsed to a debtor of a bankrupt, after the bankruptcy, cannot be set off; nor can a debtor to bankrupt before bankruptcy, and credr. to him on a contingency which happened after bankruptcy. *Green 144, in notes.* Debts due in different rights cannot be set off under this clause. *3 Tr. Atk. Rep. 691. pl. 261.*

They may with the consent of the *major part* in value of the credrs. at any meeting, pursuant to notice in the *Gazette*, submit any difference to arbitration. *15 Geo. 2. c. 30. sect. 34.*

They may with the consent of the credrs. compound debts. *Sect. 35.*

They may with the consent of the *major part* in value of the credrs. at any meeting, pursuant to notice in the *Gazette*, commence a suit in equity, but not without such consent. *2 Black. Com. 487. Atk. Rep. 91. ca. 39. id. 107, 253.*

As often as 100*l.* shall be received, they are to pay in the same in such manner and place, as the major part in value of the credrs. present at the choice of assignees shall direct; and they are indemnified for what they shall do in pursuance of such direction of the credrs. *5 Geo. 2. c. 30. sect. 32.*

They may discharge the clerk to the comn. and employ whom they please, and therefore the former one is to deliver up all papers, &c. on being paid his bill. *7 Vin. Abr. 117. pl. 2.*

They

They are to reward discoverers of bankrupts effects 5 per cent. and such further reward as the major part in value at any meeting shall think fit. 5 G. 2. c. 20. sect. 20.

The assignees, after assignment, may bring actions for debt due to the bankrupt in their own names: but if the comn. be not taken out within six years directed by law for suing for debts, and the assignment made within that time, a deft. in an action may plead the stat. of limitations: if the comn. be taken out within six years, and the assignment made within that time, the stat. preserves the debt, being to relieve credrs. against fraud. See Stra. 556. 3 Will. Rep. 144.

When money is obtained by judgment in an action of debt, and the plaintiff becomes bankrupt, and a comn. is taken out against him, though the sheriff may bring the money into court, it shall be delivered to the plaintiff, and not the assignee of the comn. unless he takes out a *scire facias* against the deft. in order to try the bankruptcy. Vent. 193.

Assignees have the benefit of covenants of re-entry into lands.

Under the assignment of the bankrupt's estate, the assignees have power to do every act the comrs. themselves might do, for the better enabling them to recover and get in the same, for the benefit of themselves and the rest of the credrs.

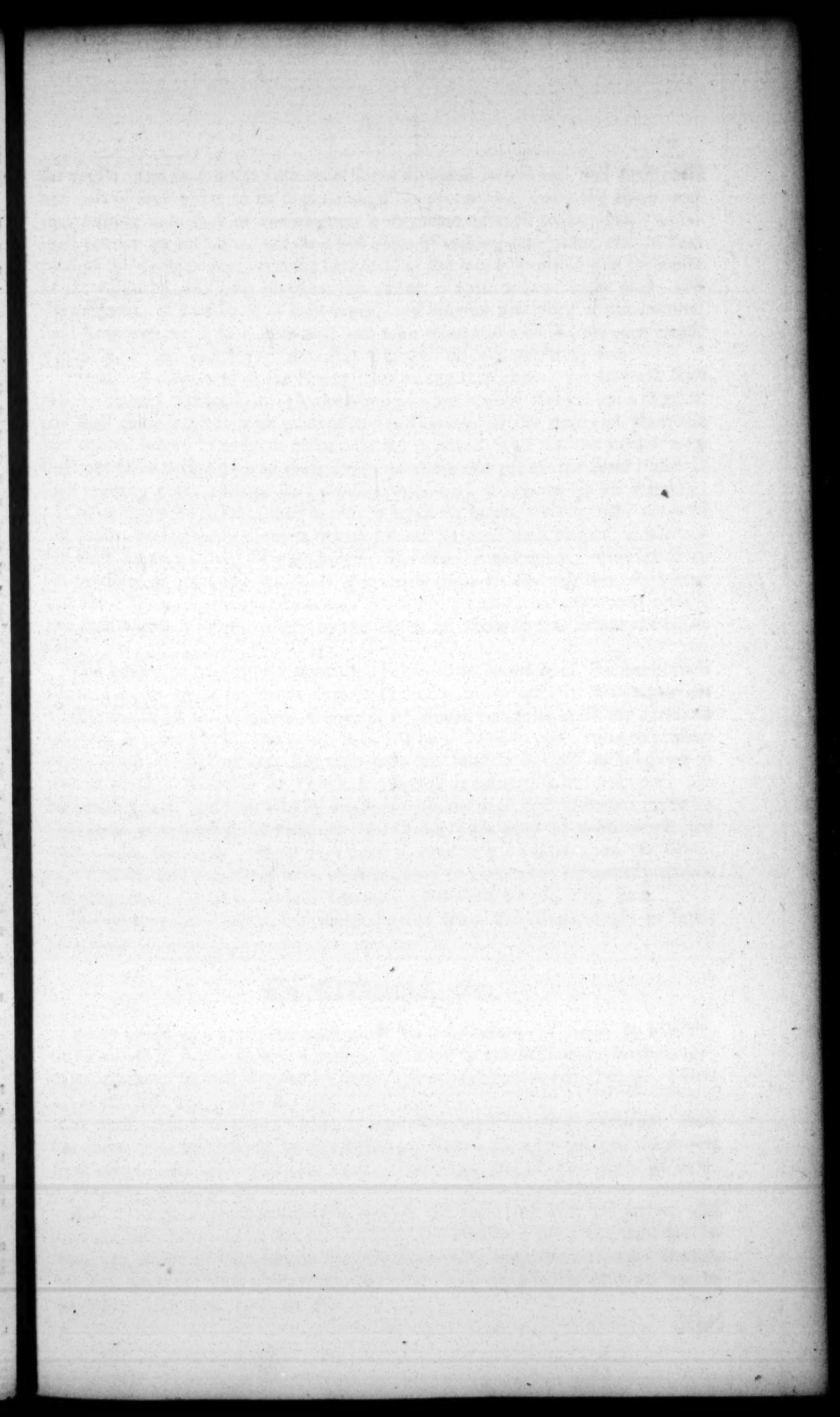
They may give notice in writing to the bankrupt after he has obtained his certificate, and the same be confirmed, to attend them to settle accounts of his estate, or to attend any court of record to be examined touching the same, or for any other business the assignees judge necessary for getting in his estate; for which attendance the assignees must allow the bankrupt 2 s. 6 d. a day; and if he neglects to attend, or refuses to assist in such discovery, without good cause shewn to, and allowed by the comrs. (the assignees proving such notice, and neglect, or refusal, on oath before the comrs.) the comrs. may issue their warrant for apprehending him, and commit him to the county gaol till he does conform, and be by the comrs. or order of ld. chanr. or due course of law discharged. 5 Geo. 2. c. 30. sect. 36. Atk. Rep. 148. ca. 8.

By virtue of the comrs. warrant they may break open chests, chambers, houses, shops, doors, &c. where he or his goods or estate shall be reputed to be, and seize upon and order the body, goods, money, &c. as to the comrs. shall be thought meet. 21 Jac. 1. c. 19. sect. 8.

'Tis most justifiable for the assignees to act publickly in their office; as where a lease of the bankrupt's house is to be sold, to advertise the same, and sell it by public sale; so of his goods and fixtures, &c. rather than by a private sale.

### Assignees when and how to make Dividends.

Persons chosen assignees shall, after the expiration of four months, and within 12 months from the time of issuing such comn. cause 21 days notice to be given, in the *Gazette*, of the time and place the comrs. and assignees intend to meet and make a dividend; at which time the credrs. who have not before proved their debts, shall be at liberty to prove the same; which meeting for the city of London, and all places within the bills of mortality, shall be at *Guildhall*; and upon every such meeting the assignees shall produce an account of their receipts and payments, and of what shall remain outstanding; and shall (if the creditors present require the same) be examined upon oath or solemn affirmation, touching the truth of such account, and the assignees shall be allowed all just allowances; and the comrs. shall order such part of the neat produce of the said bankrupt's estate, in the hands of the assignees, as they shall think fit, to be divided amongst the



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the credrs. and shall make such order for a dividend in writing, and shall cause one part of such order to be filed amongst the proceedings under the comn. and shall deliver unto each of the assignees a duplicate of such order, which order shall contain an account of the time and place of making such order, and the sum total of the debts proved, and the sum total of the money remaining in the hands of the assignees, and how much in the pound is then ordered to be paid; and the assignees, in pursuance of such order, and without any deed of distribution, shall forthwith make such dividend, and take receipt in a book from each credr.

5 Geo. 2. c. 30. *secl. 33.* *Atk. Rep.* 88, 91, *ca.* 39. *id.* 107, 209.

Within 18 months after the issuing forth of any such comn. the assignees shall make a second dividend, in case the estate was not wholly divided upon the first, and shall cause notice to be inserted in the *Gazette*, of the time and place the said comrs. intend to meet to make a second dividend, and for the credrs. who shall not have before proved their debss, to come and prove the same; and at such meeting every assignee shall produce upon oath or affirmation his accounts; and what upon the balance shall appear to be in his hands, shall by like order of the comrs. be forthwith divided, which second dividend shall be final, unless any suit shall be depending, or any part of the estate standing out, or unless some future estate of the bankrupt shall afterwards come to the assignees, in which case the assignees shall, as soon as may be, convert such future estate into money, and shall within 2 months after, by the like order of the comrs. divide the same.

*Ibid.*

The comrs. of bankruptcy appoint a dividend to be made of the bankrupt's estate, a credr. under the comn. neglects to receive of the assignees his proportion of that dividend, the assignees afterwards break and run away with the dividend that was in their hands; the credr. shall not be allowed to come upon the bankrupt's estate for that money, but must take his remedy against the assignees as well as he can. Cited by *ld. chanr. Hardwicke* as a case that had been put; but his lordship said, that case wholly depends upon the deed of distribution made by the comrs. ascertaining the dividend; for if no such deed of distribution had been made, the credr. would have been allowed to have come upon the bankrupt's estate, and would not have been confined to have taken his remedy against the assignees. *Smith v. Duke of Chandos.* *Barnard. Ch. R.* 119, 420.

In case they don't make a dividend in due time, the comrs. ought to summon them to do it. *Atk. Rep.* 91. *ca.* 39.

### Of Creditors, &c.

Every credr. of a bankrupt must prove his debt before the comrs. by himself, or by an affidt. sworn before a master, ordinary or extraordinary, in chancery, to be exhibited to, and allowed by them. *Stat. 21 Jac. c. 19. secl. 9.* 5 Geo. 2. c. 30. *secl. 29.* *Atk. Rep.* 77.

A pltfiff. that hath a deft's body in execution who becomes bankrupt, shall not come in to be relieved by the statutes. *Stone* 130, 131. *pl.* 50. *2 Black. Com.* 487. *Atk. Rep.* 262. *ca.* 142. *Bunb. Rep.* 33. *pl.* 50. 202. *pl.* 279. *7 Vin. Abr.* 104. *pl.* 1.

But if the pltfiff. recover damages against the deft. and hath judgment, and then the deft. becomes bankrupt, the pltfiff is a creditor; for it is a debt due to him, and action of debt lies on the judgment. *Cro. Car.* 166. *pl.* 12. If deft. becomes bankrupt before judgment, the pltfiff shall not add his costs at law to his debt. *Atk. Rep.* 140, *ca.* 81.

Tho' one trusts a bankrupt after he becomes such, yet he shall be relieved as a credr. because he need only swear that the bankrupt was, before the date and suing forth of the commission, indebted to him, &c.

Sureties, or bail, when they have paid the debt, may come in as credrs. Com. Dig. 527. Atk. Rep. 135, 238. ca. 130, 262. ca. 141. Cro. Jac. 127. pl. 17. But mortgagees, or persons that have a pledge of the bankrupt's goods, having security for their debts in their hands, are not credrs. within the statutes. 2 Black, Com. 487. Com. Dig. 527.

Those that attach goods of the bankrupt are to come in as credrs.

If an executor becomes bankrupt, a legatee is to be a credr. Com. Dig. 527. See Atk. Rep. 102. ca. 51.

Aliens, as well as denizens, may come in as credrs. for all statutes concerning bankrupts extend to aliens, who shall be subject to the laws against bankrupts. 2 Black, Com. 474, 475.

A credr. having proved his debt under a comn. has nothing further to do, than to wait for an order of a dividend to be made, and to receive the same.

In the distribution of the bankrupt's estate no respect is to be had to debts upon judgments, recognizances, or specialties, beyond other debts. Atk. Rep. 183, 229, 233. Bur. Rep. 476, 477. after four months and distribution made, no credr. can come in to disturb it; but he may come in for the residue of which no distribution is made. Hob. Rep. 287. pl. 375.

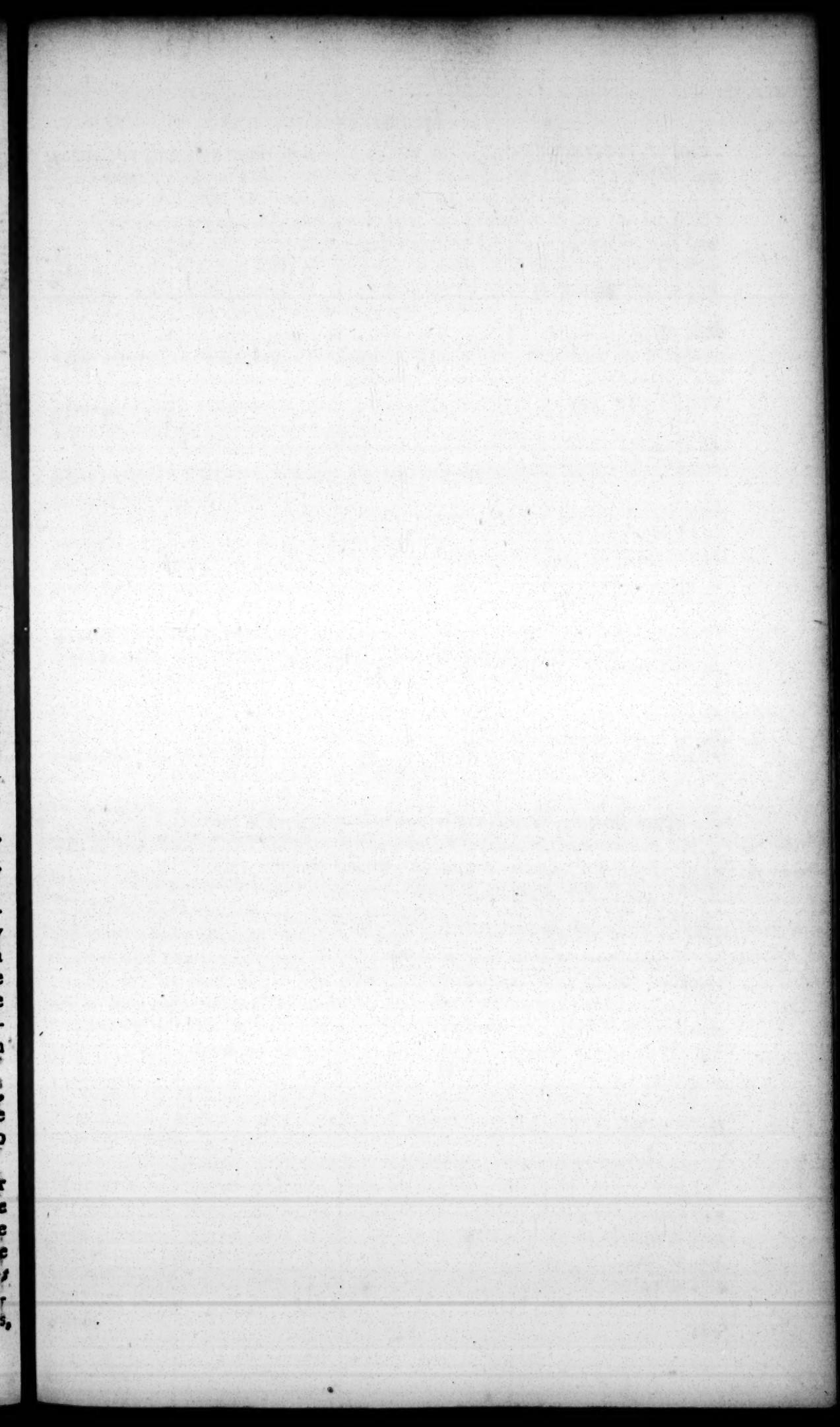
But the court of chancery hath sometimes allowed credrs. to come in after distribution, upon particular circumstances which have happened. And now generally, where one dividend has been made, and at the meeting for making a further or final dividend, other credrs. come in and prove their debts, (as they may) the comrs. will order such credrs. to be first paid a proportion equal to the first dividend, and then the remainder of the bankrupt's estate, if any, to be divided amongst all the credrs. as is just and equitable; for otherwise where such credrs. debts are small, or the dividend so, such credrs. had better go without, than apply to the court for payment of a proportion to be made them.

If a debtor to a bankrupt pay him his debt voluntarily, he must pay it over again; but 'tis otherwise in case of payment by compulsion of law. 2 Vent. 258. 3 Keb. Rep. 232. Vern 94.

But by stat. 19 Geo. 2. c. 32. no person who is *bona fide* a credr. of any bankrupt for or in respect of any goods *bona fide* sold to such bankrupt; or of any bill of exchange *bona fide* drawn, negotiated, or accepted by such bankrupt, in the usual and ordinary course of trade; shall be liable to repay to the assignee any money which before the suing forth of the comn. was *bona fide*, and in the usual course of trade, received by such person of such bankrupt, before the person receiving the same shall have notice that he is become bankrupt, or is in insolvent circumstances. Bur. Rep. 32. 7 Vin. Abr. 69. pl. 6.

Rent due to a landlord is a debt of the highest nature, and affects the goods, chattels, and stock of the tenant upon the premisses; and (if there is no seizure made by the landlord) in the case of an execution or extent, a year's rent is to be reserved for him, by stat. 8 An. c. 14. sect. 1.

But in comns. of bankruptcy it is otherwise, and no comn. can remove or carry away any goods belonging to the bankrupt, if the landlord seizes for the rent before the goods are removed, and he is to be first discharged, even if there are several years rent in arrear; and even after assignment and sale by the assignees under the comn. Atk. Rep. 103. ca. 54. but if the landlord does not seize before the comn. of bankruptcy carries away the goods from off the pre-



Where there is a surplus after paying the principal sums due  
to the creditors & interest on debts bearing interest to the issuing of the  
commission, the contribution money for y<sup>e</sup> expence of the committee  
ought to be returned to the creditors, & such as have debts carrying  
interest ought to ~~not~~ have interest continued till they receive full  
satisfaction. Ad<sup>d</sup>. on argum<sup>t</sup>: by Lord Hardwicke in favor  
of Sir Stephen Francis's creditors, 1. Att. 75.

misses, he must then come in as a credr. for his rent, with the rest of the bankrupt's credrs. *Dav.* 314. *Atk. Rep.* 104. *ca.* 55. *id.* 105. *2 Black. Com.* 487. See *Atk. Rep.* 102. *ca.* 52, 103. *ca.* 53, 54. *id.* 104. *ca.* 55.

Also if there are not sufficient goods upon the premisses to pay the landlord's rent, he can then only take what goods there are upon the premisses, and after they are appraised and sold, as the law, in cases of distress for rent, directs; then the landlord may come in as a credr. for the rent remaining due to him, with the rest of the credrs. under the commn. *Ibid.*

On a distress for rent, goods were sold, and 77*l.* 3*s.* remaining in the constable's hands, who became a bankrupt. The tenant dies, and his executors pray to be paid this money by the assignees, in preference to other credrs. On hearing denied: but ordered the petitioner to come in as a credr. with the rest. *Ex parte Dobson.* 7 *Vin. Abr.* 74. *pl.* 7.

An attorney had been employed by one who became bankrupt; assignees petition to have up papers, and that the attorney might come in for his demands *pari passu* with other credrs.

*Ld. chanr. Talbot:* The attorney hath a lien upon the papers, in the same manner against assignees as against the bankrupt; and though it doth not arise by any express contract or agreement, yet it is as effectual, being an implied contract by law; but as to papers received after the bankruptcy, they cannot be retained; and therefore if the assignees desire it, let the bill be taxed, and upon payment papers delivered up; and although the attorney had come in and proved his debt, yet a credr. who hath a security may properly come in and prove his debt; because possibly his security may prove deficient. 7 *Vin. Abr.* 74. *pl.* 8.

## What Creditors shall be allowed Interest for their Debts.

For debts on specialty, the credrs. shall have interest as well between the act of bankruptcy, as before. 7 *Vin. Abr.* 110.

Where a bankrupt's estate is sufficient to pay every debt, with a large surplus left, credrs. whose debts carried interest, shall be allowed interest for their respective debts, from the time the computation of it was stopt by the commrs. and the bankrupt or his representatives will be chargeable therewith, but such as are creditors by bond, not beyond their penalties. *Atk. Rep.* 75. *ca.* 29.

There is no such rule, "that all interest on debts carrying interest shall cease from the time of issuing the comm." *Atk. Rep.* 79, 244. *ca.* 132.

Where there is mutual credit between bankrupt and creditor, the commrs. ought to stop interest on both sides at the time of the bankruptcy, or compute interest on both till settling the account. *Atk. Rep.* 80.

Interest on debts that carry interest shall be carried down to the date of the commission; but on a special deposit of goods or stock, interest stops from the time of the deposit, and a calculation shall be made of the value of the whole entire thing deposited, both principal and interest, be it stock or goods, according to the market price at the time of the deposit. *Atk. Rep.* 259. *ca.* 139.

If a trader, being indebted on simple contract, pledges goods for the payment and promises interest, such credr. shall have interest, even between the act of bankruptcy and the commn. 7 *Vin. Abr.* 110.

A mortgagee shall have his interest run on upon a bankrupt's estate, because he hath a right *in rem*, but as to other interest it ceaseth on the bankruptcy. *Id. ib.*

And in general, whenever a credr. would be intitled to interest in an action at law, he ought to be allowed it under a comn. for none but *legal* debts can be recovered in the one case, or admitted to be proved in the other.

## Of the Bankrupt, his Estate, Duty, and Interest, &c.

If a bankrupt shall not within 42 days after notice in writing, left at his usual place of abode, or personal notice if he be in prison, and notice in the *London Gazette*, surrender himself to the comrs. and subscribe the surrender, and submit himself to be examined upon oath, or affirmation, and discover all his effects, how he has disposed thereof (and all books, papers and writings, relating to the same) of which he was possessed, or interested, or whereby he has, or may expect any possibility of advantage, (except such part as shall have been *bona fide* disposed of in the way of his trade, and except such money as shall have been laid out in the ordinary expence of his family) and also deliver up to the comrs. such part of his effects and all books and writings relating thereto, as shall be in his power, (except the necessary wearing apparel of himself, his wife and children,) or if he conceals or embezzles his estate to the value of 20*l.* or any books of account relating thereto, with intent to defraud his credrs. and being convicted thereof by indictment or information, is guilty of felony without clergy, and his goods and estate shall go among his credrs. and the comrs. are to appoint within the 42 days not less than three meetings, the last to be on the 42d day limited for his appearance, and *three weeks* notice is to be given in the *Gazette* of the time and place of such meeting. The ld. chancr. &c. may enlarge the time for such surrender and discovery, not exceeding 50 days from the end of the said 42 days (so as the order for enlarging the time be made in six days before the time on which the bankrupt was to surrender himself.) 5 Geo. 2. c. 30. sct. 1, 2, 3.

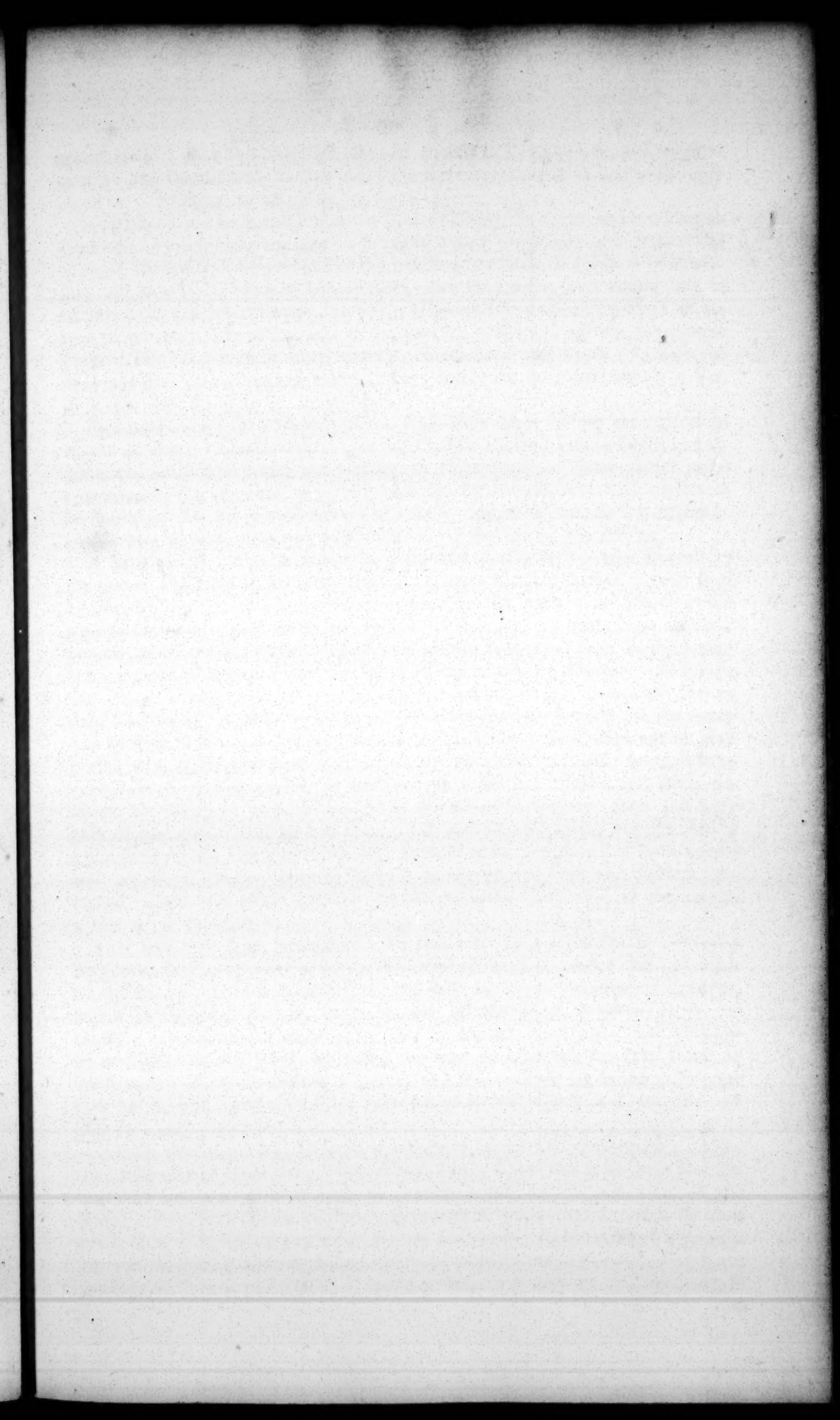
*42*  
*49*  
*91*  
The act says 50 days, but the ld. chancr's. order is for 49 days, because the 50th day may happen to fall on a Sunday; and is made on the bankrupt's petition.

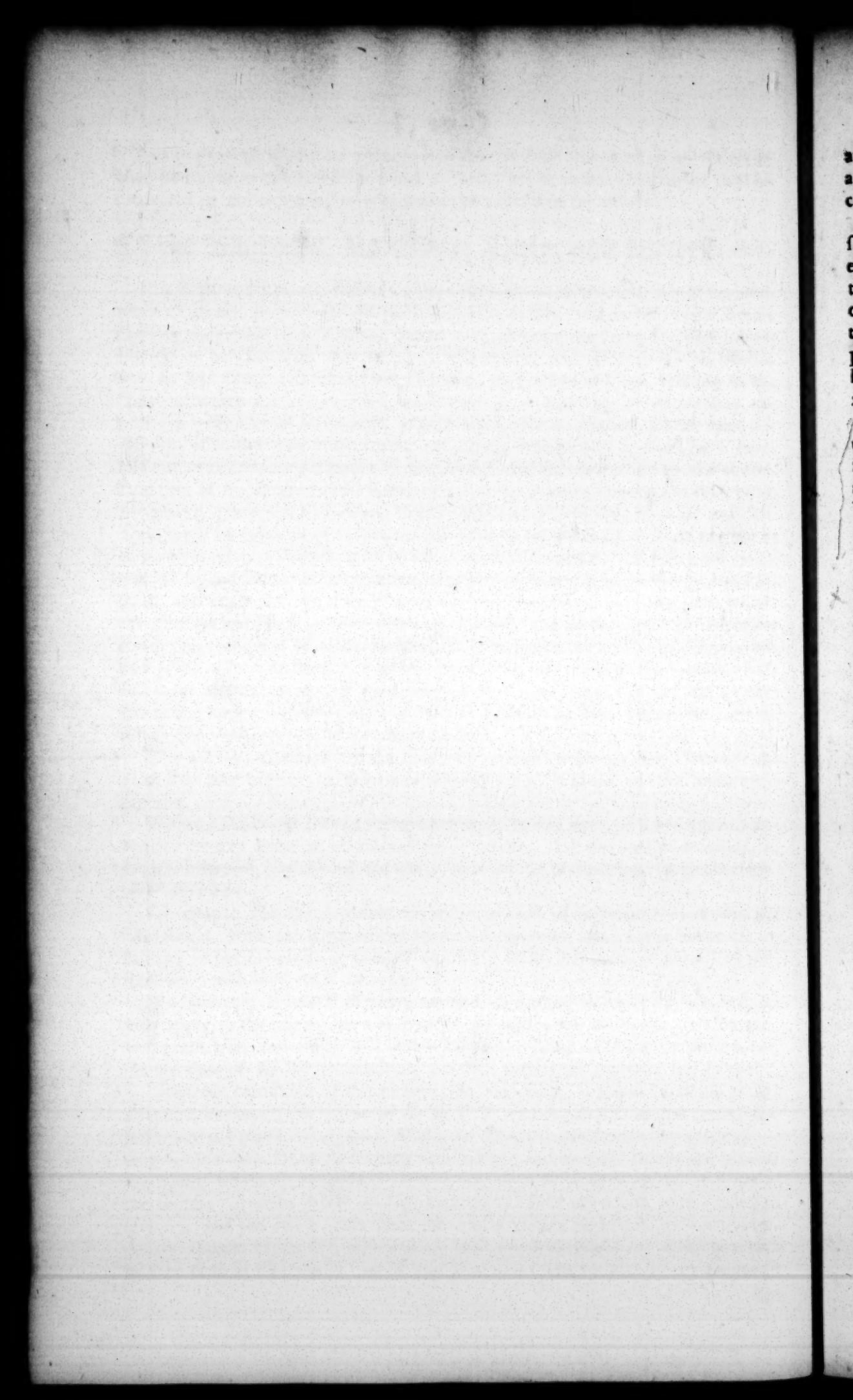
Where a bankrupt did not surrender himself in due time, if there did not appear to be any intention of defrauding his credrs. ld chancr. *Macclesfield*, in several instances, superseded the comn. in order to prevent such a prosecution. *Atk. Rep. 222.*

Ld. chancr. *Hardwicke* would not order the clerk of the comn. to attend at the *Old Bailey*, with the proceedings upon a prosecution against the bankrupt for felony, in not surrendering himself according to the directions of the act of parliament. *Atk. Rep. 221. ca. 123.*

If a bankrupt is fearful of being arrested on coming to surrender himself, he may apply to the comrs. for a warrant of protection for his person, which they will grant him, and which will secure his person from arrest and imprisonment, till the time of his last examination, whether within the 42 days or 49 days.

Upon the certificate of the comrs. that the comn. is issued, and the person proved a bankrupt, the justices of *K. B. C. P.* and the barons of the exchr. and justices of the peace in *England, Wales, or Berwick upon Tweed*, on application, to grant warrants for apprehending such person, and commit him to the goal of the county where apprehended, there to remain until he be removed by order of the comrs. And the gaoler must give notice to one of the comrs. of his being in custody, and the comrs. may seize the effects of such bankrupt (except the necessary apparel of himself, wife and children,) and his books and writings which shall be then in his custody, or of any person in prison; and if any person so





apprehended shall within the time allowed submit to be examined, and conform as if he had surrendered, he shall have the same benefit as if he had voluntarily come in. 5 Geo. 2. c. 30. sect. 14, 15.

If the bankrupt be in custody at the time of issuing the comm. and is willing to submit to be examined, and can be brought before the comrs. and credrs. the expence thereof shall be paid out of the bankrupt's estate : But if he is in execution and cannot be brought before them, then the comrs. shall attend him in custody and take his discovery, and the assignees are to appoint persons to attend such bankrupt in prison, and to prepare his books and writings in order to prepare his discovery ; a copy whereof the assignees shall apply for, and the bankrupt shall deliver to their order 10 days before the last examination. 5 Geo. 2. c. 30. sect. 6.

Bankrupt having surrendered may at seasonable times before the expiration of the 42 days, or such further time as shall be allowed him to finish his examination, inspect his books and writings in the presence of some person to be appointed by the assignees, and bring with him for his assistance such persons as he shall think fit, not exceeding two at a time, and make extracts and copies to enable him to make discovery of his effects. 5 Geo. 2. c. 30. sect 5.

A bankrupt is free from arrests in going and coming to surrender himself to the comrs. and from actual surrender for 42 days, or such further time as shall be allowed him to finish his examination, provided he was not in custody at the time of surrender ; and if he be arrested for debt, or on any escape warrant, coming to surrender, or after his surrender within that time, then on producing the summons or notice under the hands of the comrs. or assignees, and giving the officer a copy thereof, he shall be discharged ; and if any officer detain such bankrupt, he shall forfeit to the bankrupt for his own use 5 l. for every day he detains him ; and if any comm. of bankruptcy shall issue against any person who shall have been discharged by virtue of this act, or shall have compounded with his credrs. or delivered to them his effects, and been released by them, or been discharged by any act of insolvency, then the body only of such person shall be free from arrest and imprisonment, but the future estate shall remain liable to his credrs. (tools of trade, necessary household goods, and necessary wearing apparel of such bankrupt, his wife and children excepted) unless the estate of such person produces clear 15 s. in the pound. 5 Geo. 2. c. 30. sect. 9.

If a bankrupt upon examination be found to have fraudulently conveyed his goods, lands, or other estate to the value of 20 l. to hinder the execution of the statutes, or to defraud credrs. and shall not upon examination discover, and if in his power deliver, to the comrs. all the estate so conveyed or detained ; or that cannot *make appear* that he has had some *casual loss* whereby he is disabled to pay what he owed, he may be indicted for such fraud or abuse at the assizes or sessions of peace, and if convicted set in the pillory for two hours, and have one of his ears nailed to the pillory and cut off. 21 Ja. 1. c. 19. sect. 7.

For an encouragement to bankrupts duly to submit and conform, an allowance is appointed them out of their estate, *viz.* 5 l. per cent. if the neat produce that shall be received after such allowance is sufficient to pay 10 s. in the pound ; so as such allowance does not amount to above 200 l. and if the neat produce be sufficient to pay 12 s. 6 d. in the pound, to be allowed 7 l. 10 s. per cent. so as such allowance does not amount to above 250 l. and if the neat produce be sufficient to pay 15 s. in the pound, to be allowed 10 l. per cent. so

as such allowance does not amount to above 300*l.* and every such bankrupt to be discharged from all debts owing at the time he became a bankrupt; and if he be impleaded for any debt due before he became a bankrupt, he shall be discharged upon common bail, and may plead in general that the cause of action accrued before he became bankrupt, and the certificate of his conforming and the allowance thereof shall be sufficient evidence of the trading, bankruptcy, comm. and other proceedings precedent to the obtaining such certificate; unless the plaintiff can prove the said certificate was obtained unfairly, or make appear any concealment by such bankrupt to the value of 10*l.* But if the debt produce does not amount to 10*s.* in the pound, he is to be allowed so much only as the assignees and comrs. think fit, not exceeding 3*l.* per cent. 5 Geo. 2. c. 30. sect. 7, 8.

As this clause of the statute hath not the words, “*over and above such allowance,*” and as it doth not limit the allowance to any particular sum, it seems that a bankrupt, who pays only 9*s.* and 9*d.* in the pound, may be intitled to a larger allowance than one who pays even 13*s.* in the pound; for the latter cannot receive more than 300*l.* whereas the former may near 500*l.*

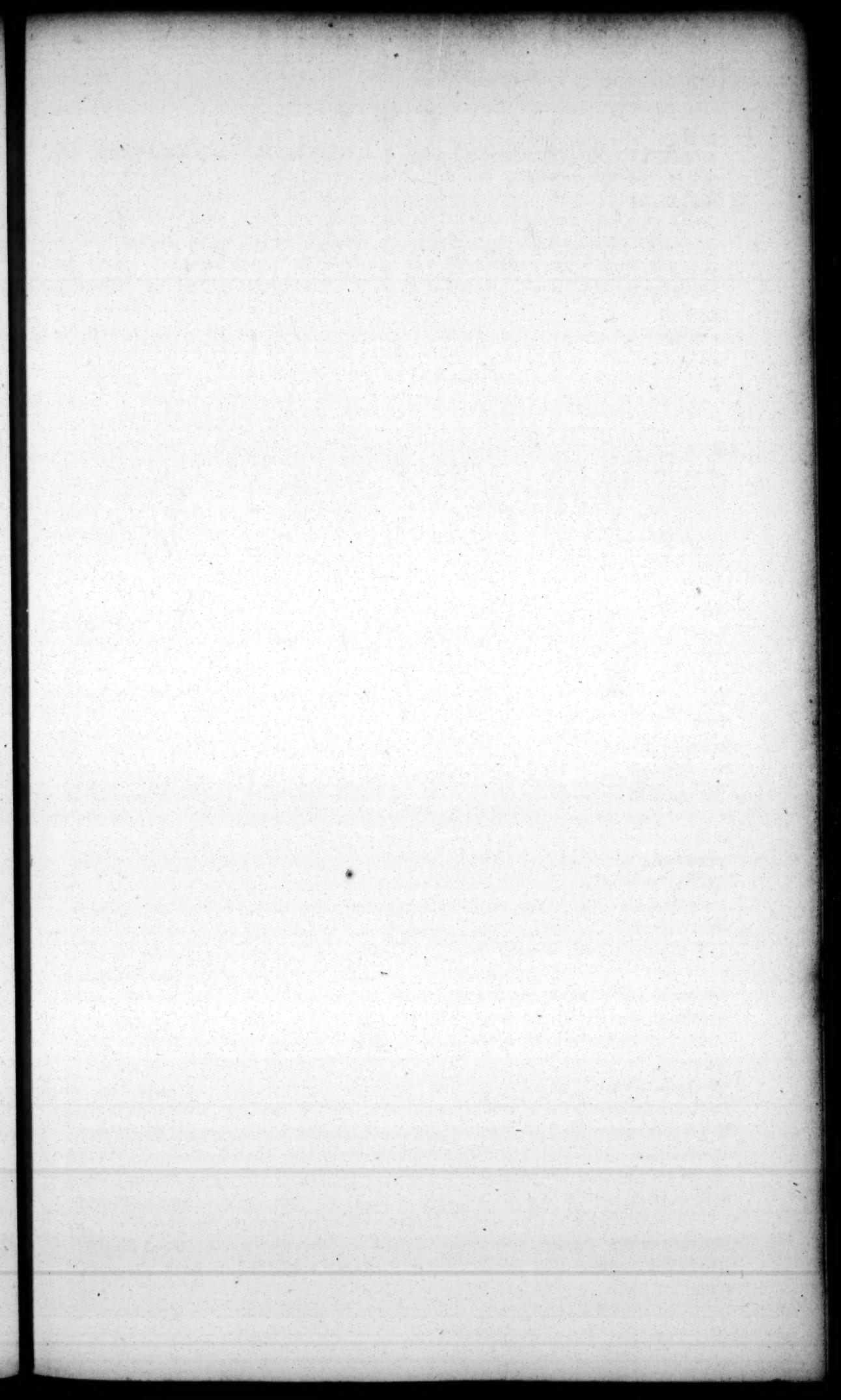
But observe, no discovery intitles the bankrupt to the benefits of this act, unless the major part of the comrs. certify to the ld. chancr. that he has made a full discovery, and in all things conformed himself, and that there is no doubt of the truth of such discovery, and unless four parts in five (both) in number and value of the credrs. who must be credrs. for not less than 20*l.* respectively, or some other person by them duly authorized, sign such certificate: but the comrs. are not to certify till they have proof, by affidt. or affirmation in writing, of such credrs. signing the said certificate and of the power by which any person is authorized to sign for any credr. (which affidt, or affirmation together with such authority to sign shall be laid before the ld. chancr. &c. with the said certificate) and unless such bankrupt make oath or affirmation in writing, that such certificate was obtained without fraud; and unless such certificate be allowed by the ld. chancr. &c. or by such two of the justices of K. B. and C. P. or barons of the exchr. to whom the consideration of such certificate is referred by the ld. chancr. and any of the credrs. are to be heard, if they think fit, against the making the certificate and against the confirmation thereof. 5 Geo. 2. c. 30. sect. 10.

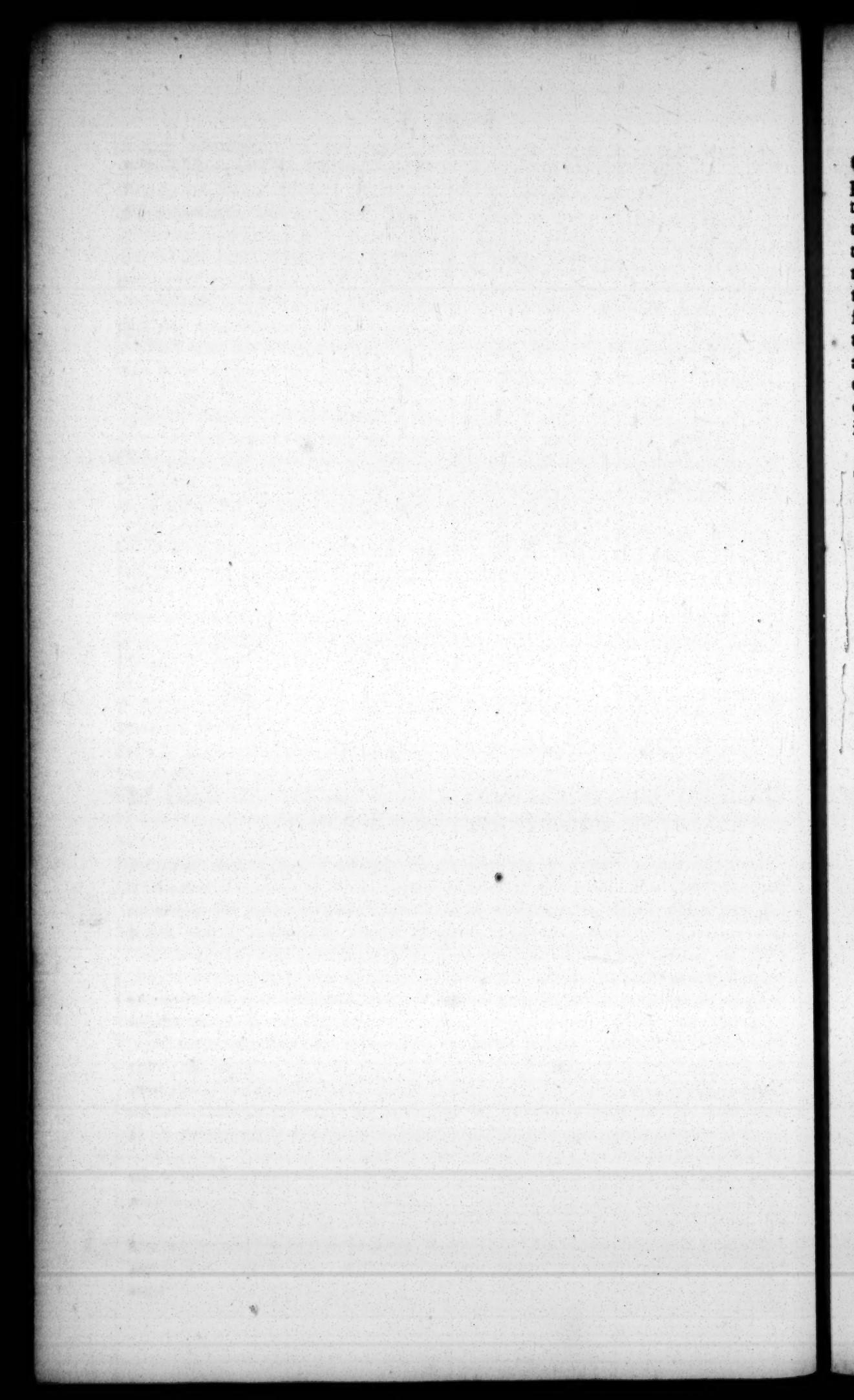
*Formerly* the judges had the cognizance of certificates, but being found inconvenient, the great seal hath taken it to itself. Atk. Rep. 87.

If a bankrupt who has obtained his certificate be taken in execution, or imprisoned on account of any debt owing before he became a bankrupt, by reason that judgment was obtained before certificate allowed, a judge of the court wherein judgment was obtained, on the bankrupt's producing the certificate allowed, may order any sheriff or gaoler to discharge him without fee. 5 Geo. 2. c. 30. sect. 13.

But the discharge of a bankrupt from debts owing by him when he became a bankrupt, shall not discharge him who was his partner in trade, or stood jointly bound, or had made any joint contract with such bankrupt. 10 Atk. c. 15. sect. 3.

In order for a bankrupt to obtain his certificate, 'tis necessary he should apply to the solr. under the comm. (as bankrupts generally do under friendly comms.) or some other solr. to draw up and prepare his examination, and do what is necessary to be done on the bankrupt's part, and likewise draw up and ingross his certificate, which four parts in five of his credrs. (who are credrs. for not less than





than 20.) both in number and value must sign; for which purpose 'tis most expedient for him to have some person attend with the certificate ingrossed at the third sitting, who with himself may request such credrs. as then appear to sign the same; this person must see them sign it, because he must make an affidt thereof, before the comrs. will sign it; when he has got all the hands he can at this sitting, the same or any other person may go round with him to the rest, the person or persons who saw the same signed must make an affidt thereof before a master in chancery, which being produced to the comrs. they will cast up the number of credrs. and the amount of their debts, and those who have signed; and if it appears that four parts in five both in *number and value* have signed the certificate, they will also then sign it; the bankrupt must have a meeting of the comrs. at his own expence on purpose to have it signed by them; which meeting must be published in the *Gazette*:

Where there is reason to suspect fraud in the bankrupt, the credrs. are very cautious of signing his certificate; but where there is no room to suspect any fraud, some credrs. are too fond of standing out, and make a great merit of shewing an indulgence to a bankrupt in doing it, though both reason and justice require it; for when a man has fairly given up his all, what would they have more; and why would they keep a poer man in suspence? when, if 'tis their intent to sign at all, they may as well sign it at first as at last, and without reluctance; and how common and unreasonable it is in one man to cry, I won't sign it, till such a one has signed; I will sign it, when the rest have, &c.

The bankrupt having his certificate signed by his credrs. and certified by the comrs. by their signing thereof, the bankrupt is then to make an affidt before a master in chancery of his having obtained the same fairly and without fraud; which affidt must be left with the certificate in the secretary of bankrupt's office, in order that the same may be allowed by my ld. chancr.

## How far any future Estate of a Bankrupt shall be liable to the Commission.

If any person declared a bankrupt by virtue of this act, shall at any time after purchase lands or chattels, or any lands or chattels shall descend or come to such bankrupts before their debts shall be fully satisfied or agreed for, the said lands and chattels shall, by the comrs. be bargained, sold, extended, delivered and used, for the payment of the said credrs. in like manner as other the lands and chattels of the said bankrupts. 13 El. c. 7. sect. 11.

In case any comn. of bankruptcy shall issue against any person, who, after the 24th day of June 1732. shall have been discharged by virtue of this act, or shall have compounded with his credrs. or delivered to them his estate or effects, and been released by them, or discharged by any act for the relief of insolvent debtors, after the time aforesaid, the body of such person conforming as aforesaid, shall be free from arrest and imprisonment by virtue of this act; but his future estate and effects shall remain liable to his credrs. as before the making of this act (his tools of trade, necessary household goods and furniture, and his necessary wearing apparel, and of his wife and children only excepted) unless his estate shall produce clear, after all charges, sufficient to pay every of his credrs. 15s. in the pound for their respective debts. 5 Geo. 2. c. 30. sect. 9.

Upon motion for a new trial, the court held, that though under the said statute, the future effects of a bankrupt against whom two comns. had issued,

were

were liable to be seized for the benefit of credrs. yet the bankrupt had in the mean time such a property in them, as enabled him to transact and sell to a *bona fide* purchaser. *Absley v. Kell.* 2 Stra. 1207.

## Of superseding Commissions.

If all the credrs. who petitioned for a comm. should agree to have it discharged or superseded, it may be granted.

And if other credrs. who were not petitioners, should pray a renewal of the comm. and a revocation of the *supersedeas*, *quare*, if it may not be granted, especially if the *supersedeas* was within four months after the granting of the comm. *Vern.* 209. 2 Chanc. Cas. 191, 192.

Comns. fraudulently obtained to be superseded, and another granted.

A comm. was taken out, and not sat on until three months after. Ld. chancr. King said it plainly shews it was done to protect the estate; the comm. shall be superseded for example-sake, that such things should not be practised. *Sel. Cas. in Chanc.* 46.

*A.* sued out a comm. of bankruptcy against *B.* and kept it for six months without doing any thing upon it, and afterwards executed it. Ld. chancr. King, on a petition, superseded it for this very reason; and it being urged, that the expence of another comm. would be a fresh charge upon the bankrupt's estate, his lordship replied, he would take care that the former comm. should not be at the charge of the bankrupt's estate. *Ex parte Puleston,* 2 Will. Rep. 545.

*Toms* and *Allen* having recovered judgment against one *Barnaby*, he was surrendered by his bail, and then charged in execution; after which the plaintiffs in that action preferred their petition to the *ld. chancr.* as credrs. for a comm. of bankruptcy, which issued, but was superseded upon the bankrupt's petition. *Ld. chancr. King* being of opinion, that the body of the debtor being in execution, it was a satisfaction of the debt in point of law; so that they were not creditors who could petition. *Str.* 653. *R. S. L.* 189. 7 *Vin. Abr.* 134. *pl. 17. Atk. Rep.* 152. *ca. 91.*

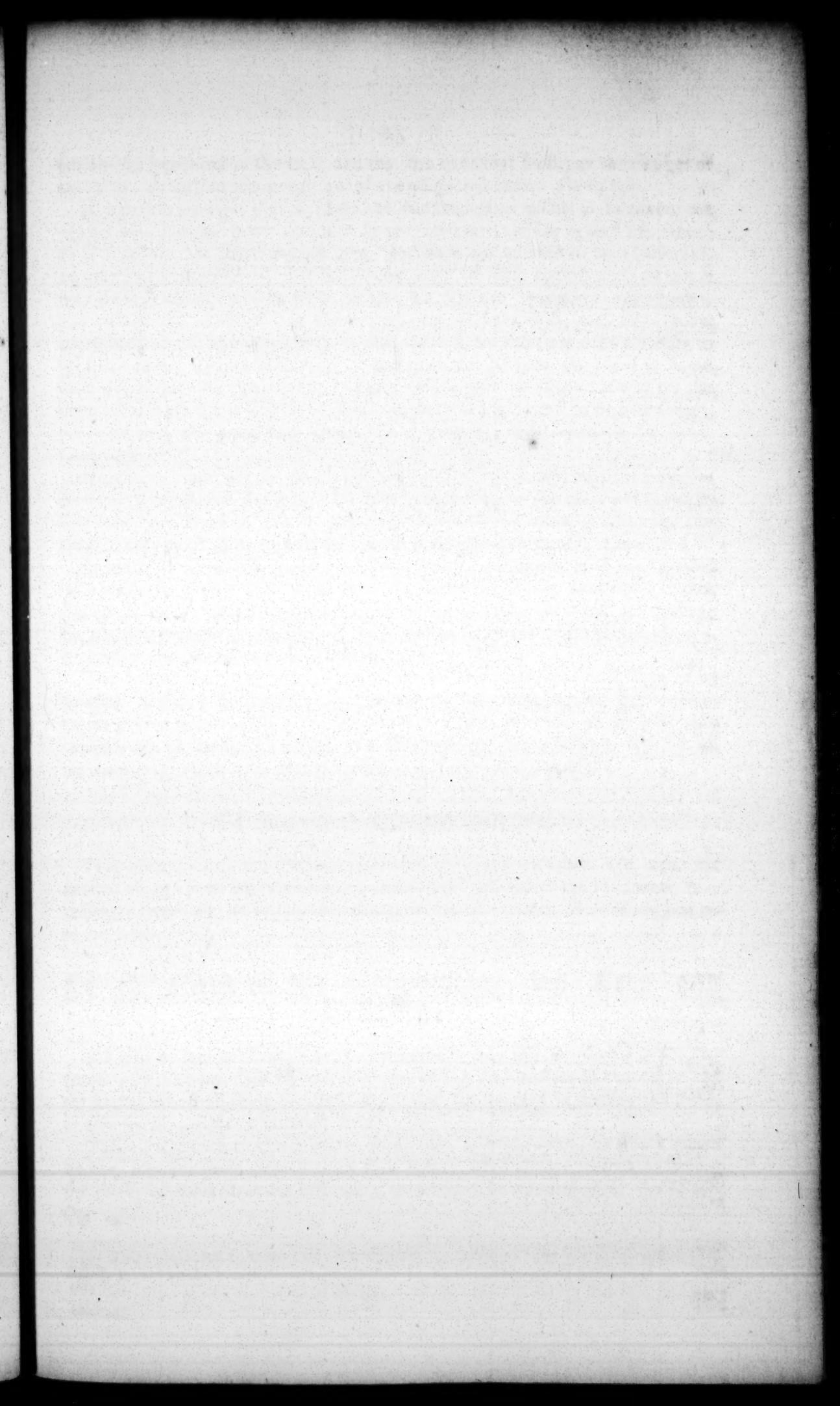
A comm. of bankruptcy was superseded, because granted upon the petition of an assignee of a bond, who, though he is an equitable, yet is no legal creditor. 2 *Str.* 899. 2 *Kel.* 6. *pl. 8.* *Will Rep.* 783. *Sel. Cas. of Evid.* 161.

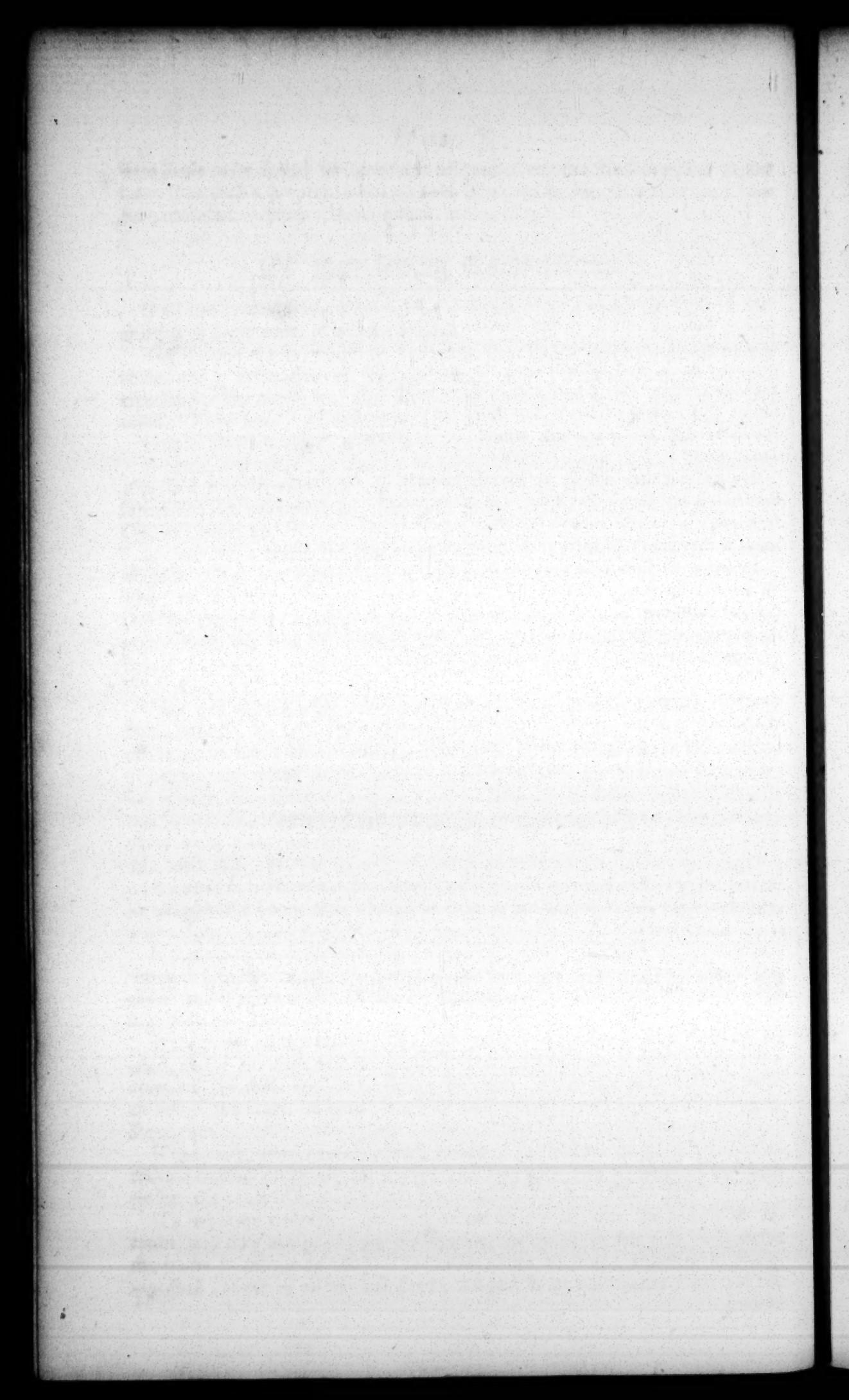
If there is not a debt due to the petitioning credr. in this case the court orders the comrs. to inquire into the nature of the debt, and to certify the same to the court; and if there is not a sufficient foundation for the debt, the court will supersede it. *Dav.* 548.

If the party insists he is no trader, the court usually directs such facts to be tried, and if on such trial it appears to the court that he is not a trader, the court will for these reasons supersede the comm. and if the party appears to be an infant, the court, on proof made of such infancy, will supersede the comm. *Dav.* 548.

If the party, after a comm. issued, makes a satisfaction, or gives security to make a satisfaction to all the credrs., and they give him a release; for these reasons the court will, on petition, supersede the comm. *Dav.* 548.

If a bankrupt conveys all his real estate to trustees, for the benefit of his credrs. and they accept of such conveyance, the court, in this case, will order the credrs. to deliver up all their securities to the bankrupt, and that the bankrupt shall deliver up all the title deeds, and join in the conveyance; and that the trustees





trustees shall proceed in the trust, and that the bankrupt shall pay the charges of the comn. deducting the money out of the assignees hands. *Dav.* 549.

If a person supposes that a comn. of bankruptcy is going to be taken out against him, he may enter a *caveat* in the secretary's office against the same; or if a comn. has issued against him, and he is not minded to be a bankrupt, he may petition the court, that such comn. may not issue against him, or that it may be superseded; and in such petition he sets out, that he is not a trader, and within the intent of the statutes relating to bankrupts, and that he has committed no act of bankruptcy, or that there is no sufficient debt whereon to ground a comn. and upon hearing the merits of this petition, the court in some cases determines the point, and in other cases directs an issue at law to try the same; and if on the trial of such issue, the party is not found to be a bankrupt, the court will not grant such comn., or if granted, will supersede the same. *Dav.* 550.

If a comn. taken out in an adverse manner, is superseded, and the party on the trial is not found bankrupt, the court, according to the nature of the case, frequently will order costs to the party against whom the comn. is taken out; or may, if they think proper, assign over the bond given to the *ld. chancr.*

In order to supersede a comn. of bankruptcy, a petition must be engrossed on a treble six-penny sheet of paper, and signed by all the bankrupt's credrs. (be the debts ever so small) then lodged at the secretary of bankrupt's office; the petition requires no attendance, it is only to be served (with the *ld. chancr.*'s &c. order thereon) upon all parties concerned.

The bankrupt must sign the prayer of the petition, and there must likewise be an affidt. of seeing the bankrupt sign, as also of the credrs. signing their consent to the prayer of the bankrupt's petition; for a form of which affidt. you may consult that of seeing the credrs. of a bankrupt sign his certificate, No. 25. of the appendix, which with proper variation will serve the purpose.

### Of tam quam Commissioners.

*Tam quam* comrs. are specially appointed by the *ld. chancr.* &c. upon old comns. being renewed, (which are granted upon petition to the *ld. chancr.* &c. as original ones are) to supply the places, in the new comn. of such old comrs. as are dead.

### Of the Clerk to the Commission, his Fees and Discharge.

All bills of fees or disbursements demanded by any solr. employed under any comn. of bankrupts, shall be settled by one of the (*a*) masters in chancery, and the master who shall settle such bill, shall have, for his care in settling the same, as also for his certificate thereof, 20*s.*

*Johnson* was both clerk and comr. to a comn. of bankruptcy, by which means he had fees for both, and thereby four comrs. were always present, including the clerk, whereas three are sufficient; on petition he was removed. *Sel Chanc.* *Cas.* 46.

(*a*) This is intended to mean bills after assignees are chosen: The solr's. bill before then may be settled by the comrs.

The clerk to a comm. of bankruptcy, in the presence of the person at whose instance he issued out the com'n, no other person being by, took away the scrutre, and opened it, in which were all the papers of the bankrupt, and made a pretended sale by an appraiser. On petition he was ordered to be examined on interrogatories, as to the real value of the goods, and to pay the value, and all costs, occasioned by this irregularity, and all the goods not disposed of to be delivered over, and he to be removed from the clerkship. *Id.* 45.

The clerk to a comm. may be discharged by the assignees, for they are trustees for the credrs. and may employ whom they please; and therefore the former clerk was ordered to deliver up all papers on being paid his bill. *7 Vin. Abr.* 117. pl. 2.

### Of striking a Docket

A creditor of the intended bankrupt, makes the usual affidavit of his debt, and executes the common bond to the great seal; but he will not be obliged to prosecute the commission, unless another creditor of the insolvent applies for a commission; then the first creditor's solicitor hath notice sent him, that unless he seals his commission forthwith, the commission will issue on the second creditor's application. See *Greas. 264.*

## A P P E N D I X.

### N<sup>o</sup> 1. Affidavit of petitioning Creditor's Debt.

**J**OHN H.—of—in the county of *X.* gentleman, maketh oath, that *W*illiam S. late of the *Strand* in the parish of—in the county of *Middlesex*, sugar refiner, is now justly and truly indebted to him this deponent, in the sum of 300*l.* and upwards, upon his the said *W. S.*'s bond, bearing date the— day of—1764 for which said sum of 300*l.* or any part thereof, this deponent hath not received any security or satisfaction whatsoever, except the said bond; and this deponent saith, that he believes the said *W. S.* is become a bankrupt within some or one of the statutes now in force concerning bankrupts.

*J. H.*

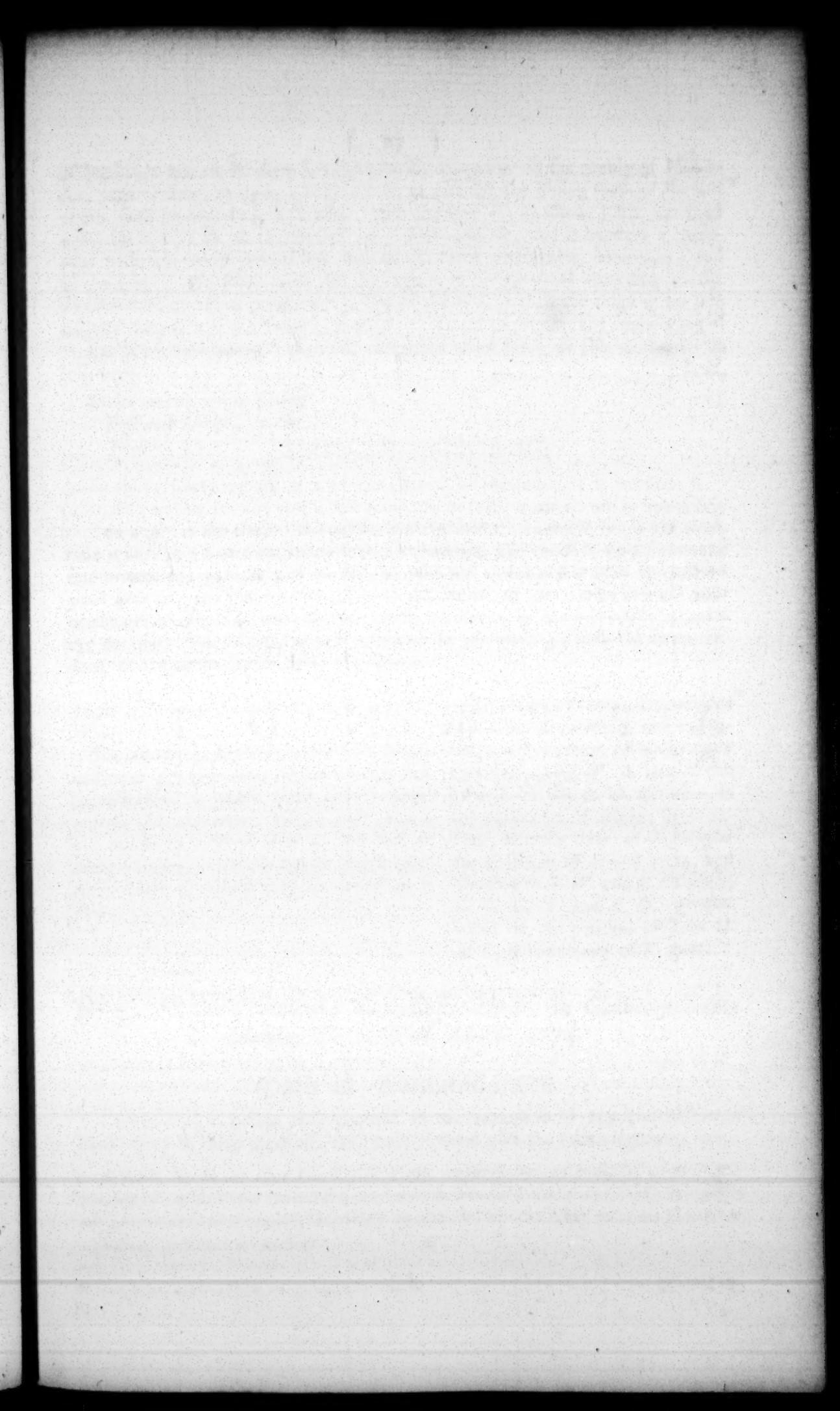
*Sworn—*

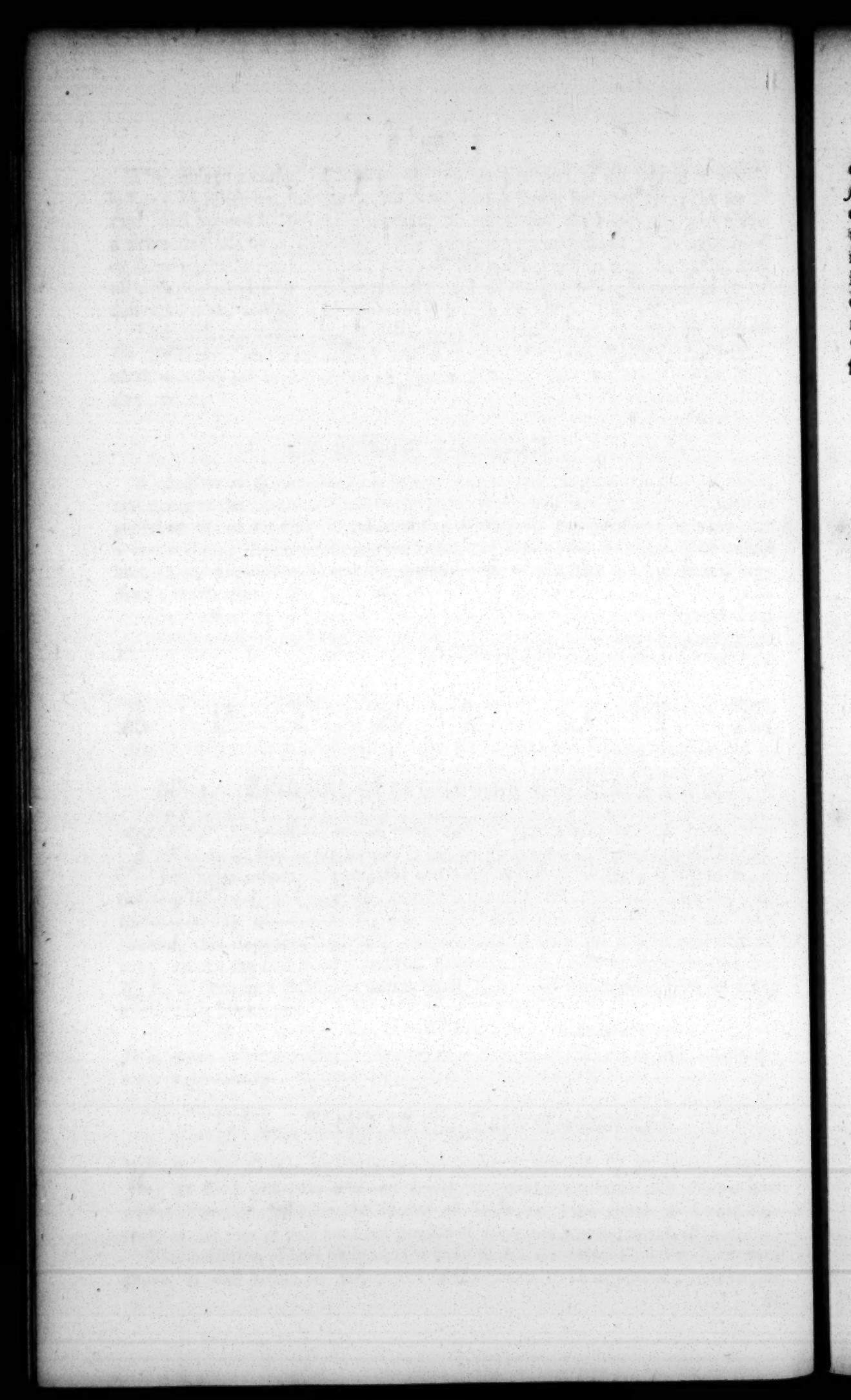
To be sworn before a master in chancery if in town; or before a master extraordinary in the country.

### N<sup>o</sup> 2. Bond to the Lord Chancellor.

**K**NOW all men by these presents, that I John H. of *R.* in the county of *Y.* gent. am held and firmly bound unto the right hon. Henry lord *Apsley*, baron of *Apsley*, in the county of *Sussex*, 1*d.* high chanr. of Great Britain, in the sum of two hundred pounds of good and lawful money, &c.

The condition of this obligation is such, that if the above bounden *J. H.* shall prove, as well before the major part of the comrs. to be appointed, in a comp. of





of bankrupt against *William S.* of the Parish of —— in the county of Middlesex, sugar refiner, as upon a trial at law, in case the due issuing forth of the said comn. shall be contested, and tried; that the said *W. S.* stands justly indebted unto the said *J. H.* in the sum of 300*l.* and upwards, and is become a bankrupt within some or one of the statutes in force concerning bankrupts; and if the said *J. H.* shall cause the said comn. to be executed according to the directions of an act of parliament passed in the fifth year of the reign of his late majesty king *George the second*, intituled, "An act to prevent the committing of " frauds by bankrupts;" then this obligation to be void, or else to remain in full force.

*J. H.*

Sealed and delivered (being  
first duly stamp'd) in the  
presence of

*A. B.*  
*C. D.*

You apply to the clerk in the secretary of bankrupt's office for the above bond, who will fill it up on your instructions; and having got the affidt, duly sworn and bond executed, you carry them to him, who will thereupon ingross and exhibit your petition, and get a comn. of bankrupt sealed for you; then instruct your messenger to summon three of the comrs. to meet; in the mean time prepare the necessary proceedings, *viz.* the title of the proceedings, with the memorandum of the comrs. oaths, &c. as follows.

The proceedings should be wrote fair, large, and wide (to give room for amendments and interlineations) on paper, with a very large margin for the comrs. to set their names in; beginning a fresh sheet at each date or new proceeding, except the depositions of credrs. debts, three of which may be wrote on a sheet.

EXAMINATIONS, Depositions and other proceedings had and taken under a comn. of bankruptcy awarded against *W. S.* late of the Strand, in the parish of —— in the county of Middlesex, sugar refiner, bearing date at Westminster the 17th day of March 1774, and directed to *G. W.* and *R. C. Esqrs.* *S. B. C. H.* and *F. D.* gentlemen, on the petition of *John H.* of *R.* in the county of *Y.* gent.

Nº 3. At the *Crown and Rolls Coffee-House*, in *Chancery Lane*,  
Monday the 20th of March 1774.

### Dath of Commissioners.

Commissioners before they proceed in the execution of any commission of bankruptcy to them directed, shall each of them take the following oath, *viz.*

I A. B. do swear that I will faithfully, impartially and honestly, according to the best of my skill and knowledge, execute the several powers and trusts reposed in me as a comnr. in a comn. of bankrupt against *W. S.* and that without favour or affection, prejudice or malice.

*Memorandum of commissioners taking the oaths.* Memorandum, that we G. W. esq. S. B. and C. H. gents, being the major part of the comrs. named and authorized in a comm. of bankrupt awarded against W. S. of —— administering to, and severally took before each o her, the oath of a comr. of bankrupt, prescribed and specified in and by an act of parliament made in the fifth year of the reign of his late majesty K. G. the second, intitled, "An act to prevent the committing of frauds by bankrupts," before we proceed to act in the execution of the said commission, according to the directions of the said act.

*Witness.*

R. B.

G. W.  
S. B.  
C. H.

#### Nº 4. At the Crown and Rolls, &c. as before.

*Deposition of the petitioning creditor's debt.* John H. of R. in the county of Y. gent. being sworn and examined the day and year, and at the place abovesaid, before the major part of the comrs. in and by a commission of bankrupt awarded and issued, and now in prosecution against W. S. of, &c. upon his oath, saith, that the said W. S. was before the date and suing forth of the said comm. and still is justly and truly indebted unto him this deponent in the sum of 300 l. principal money, for so much money lent by this deponent to the said W. S. and 2 l. for interest for the same, for which said sums or either of them or any part thereof, this deponent has not received any security or satisfaction whatsoever, except the said W. S.'s bond bearing date the 8th day of May last, in the penalty of 600 L conditioned for the payment of 300 l. and interest to this deponent. J. H.

If the petitioning creditor lives in the country, or cannot attend at this meeting to prove his debt, the solr. must get an office copy of his affidt. from the secretary of bankrupt's office, and exhibit it to the comrs. writing under it, (as upon all exhibits)

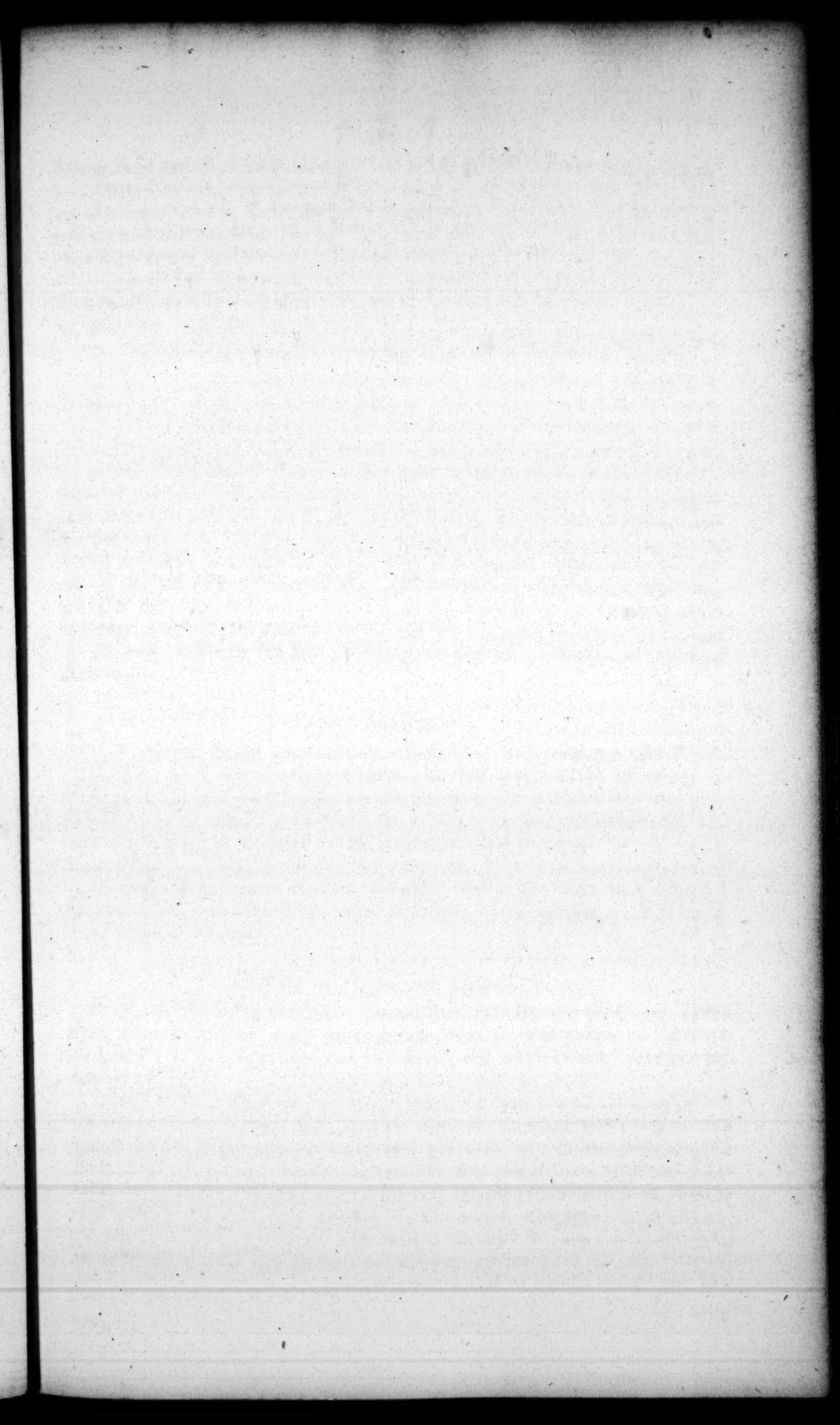
Exhibited to us the 20th day of March 1774.

G. W.  
S. B.  
C. H.

#### Nº 5. At the Crown and Rolls, &c. as above.

*Deposition of M. G. of the parish of Saint James in the liberty of Westminster, and county of Middlesex, coal merchant, being sworn and examined, &c. upon his oath saith, that the said W. S. did exercise and carry on the trade and business of a sugar refiner, in buying of sugars and molasses, refining the same, and selling the same when so refined, and hath so done to this deponent's knowledge for the space of two years and upwards now last past, and sought and endeavoured to get his living thereby, as others of the same trade and business are used to do; and this deponent saith, that within the space of three months now last past, the said W. S. hath absconded and left his dwelling house, and doth now secrete himself from his credrs. for fear of being arrested for debts; and this deponent saith, that on or about the 25th day of February last, this deponent was in company with the said W. S. when he desired this deponent to go to Mr. W. who was concerned as attorney for the said*

John



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*John H.* and to desire him to meet the said *W. S.* on *Monday* then next (the said *W. S.* being at that time locked up in a room at the house of one *H. H.* for fear of being arrested); and accordingly this deponent went to the said *Mr. W.* as desired, and afterwards on the same day went with the said *W. S.* to the *Cardigan Head tavern* at *Charing Cross*, and there met the said *Mr. W.* the said *W. S.* then declaring that the reason of his going to that tavern, was for fear of his being arrested, the said tavern being in the verge of the court. *M. G.*

*One witness is sufficient, though it may be necessary to have more to support the corresponding circumstances relating to one act of bankruptcy only.*

— And this deponent saith, that on *Monday* last, the said *Another.* *A. B.* desired this deponent to deny him the said *A. B.* to all persons that asked after him, for that he feared being arrested by some of his credrs. and this deponent saith, that on *Tuesday* last one *C. D.* who is a credr. of the said *A. B.* as this deponent believes, called at the dwelling-house of the said *A. B.* and enquired for him of this deponent, and this deponent then informed the said *C. D.* that the said *A. B.* was not at home; but this deponent saith, that the said *A. B.* was then at home in his dwelling house, locked up in his own room up stairs; and this deponent afterwards told the said *A. B.* that he had so denied him, and he seemed well satisfied therewith, and this deponent saith, that the said *A. B.* went from his dwelling house yesterday, and hath not returned since, and this deponent believes that the said *A. B.* now absconds for fear of being arrested by his credrs. or some of them.—

### *Taking Sanctuary.*

*T. W.* of &c. being sworn and examined, &c. saith, that the said *W. S.* did within the space of three months now last past take an apartment or lodgings in *Scotland yard* in the city and liberty of *Westminster*, for the purpose of screening himself from his credrs. as this examinant verily believes, because the said *W. S.* declared to this examinant, that the reason of his taking this apartment or lodgings in *Scotland yard* was, for fear of his being arrested by his credrs. some or one of them, for debt, and at the same time informed this examinant, that the said apartment or lodgings were privileged, they being in the verge of the court. *T. W.*

### *Making a fraudulent Grant.*

*P. R.* of, &c. being sworn and examined on the day and year, and at the place abovementioned, upon his oath saith, that he was present and did see the said *W. S.* duly sign, seal, and as his act and deed deliver a certain indenture of, &c.

[*Here set forth the denomination of the deed, the date, and parties names.*] and this examinant further saith, that the name *W. S.* subscribed [or mark set] against the seal of the said indenture (now produced by him this examinant at the time of this his examination, and exhibited to the major part of the commissioners in and by the said commission named and authorized) is the proper hand writing [or made by] the said *W. S.* and this examinant further saith, that the name of this examinant subscribed to the said indenture as a witness to the execution thereof is of this examinant's own proper hand writing. *P. R.*

### Obtaining an illegal Protection.

S. M. of, &c. being sworn and examined, &c. in and by the commission of bankrupt now in prosecution, awarded and issued upon his oath, saith, that the said W. S. is protected by ambassador to he this examinant having seen the said protection under the hand and seal of the said ambassador, in the possession of the said Francis Gibbons, and this examinant further saith, that he verily believes that the said Francis Gibbons, procured the said protection for the purpose of screening himself from his creditors, and to prevent his being arrested by them for debt, because he, this examinant, on or about the fifth day of March now last past, was present and in company with the said W. S. and William Whitaker whom this examinant was credibly informed is one of the bailliffs belonging to the sheriff of Middlesex, (which information this examinant verily believes to be true,) who told the said W. S. that he had a warrant to arrest him the said W. S. at the suit of James Taylor for 500L debt, whereupon the said W. S. produced his said protection to the said William Whitaker, and claimed privilege by virtue thereof, and bad the said William Whitaker to arrest him at his peril, which the said William Whitaker declined to do, on account of the said protection, as this examinant believes for the reasons aforesaid.

S. M.

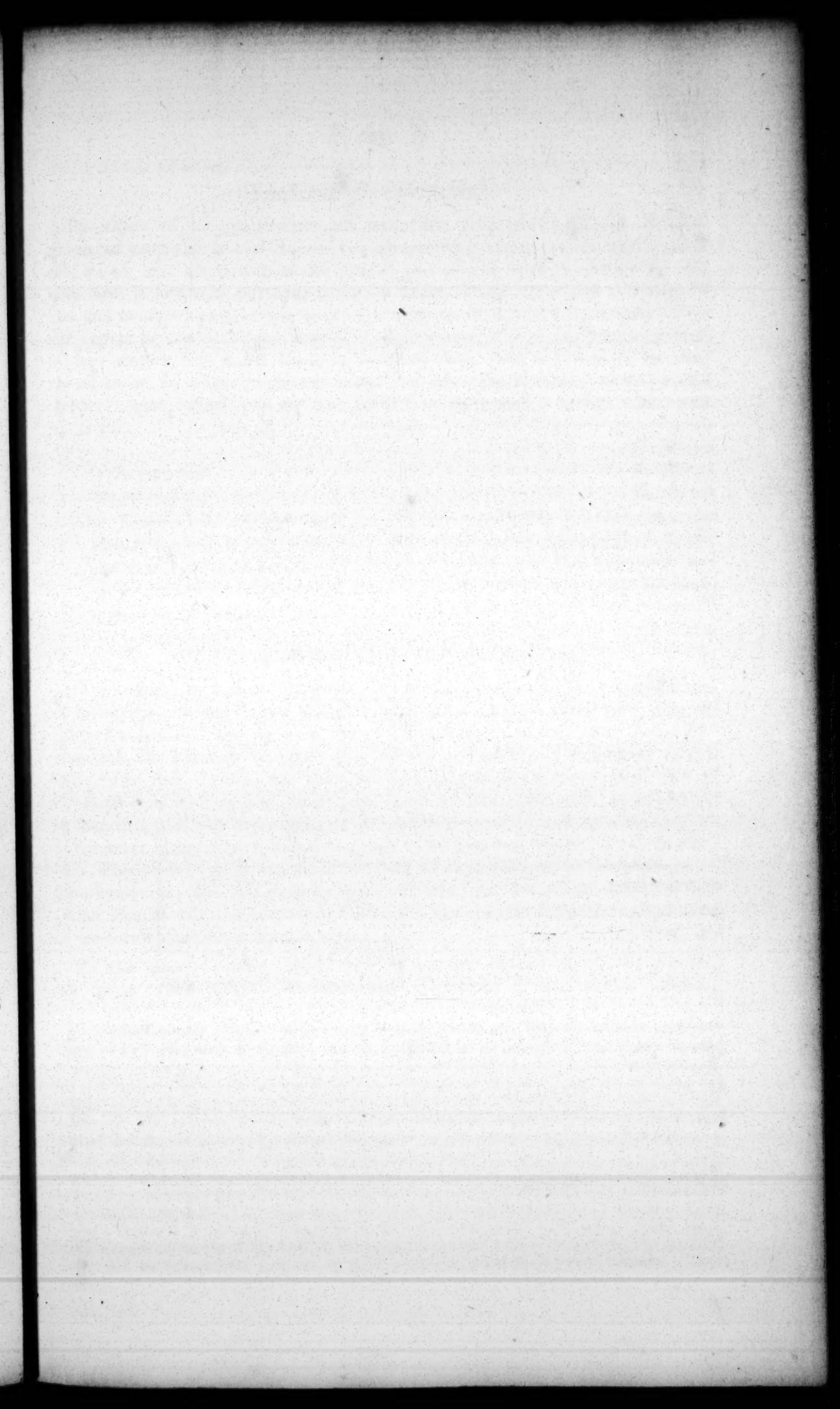
### Member of Parliament.

Gyles Simpson of the city of London merchant, and John Cox of Lincoln's Inn, in the county of Middlesex, gent. being severally sworn and examined, &c. upon their oaths say; and first, this examinant Gyles Simpson, for himself saith, that on or about the      day of      now last past, he this examinant by virtue of an act of parliament made and past in the fourth year of the reign of his present majesty king George the third, intituled, "An act, " for preventing inconveniences arising in cases of merchants, and such other " persons as are within the description of the statutes relating to bankrupts, being intituled to the privilege of parliament, and becoming insolvent," did make an affidt, in his majesty's court of King's Bench at Westminster, that the said W. S. was justly indebted unto him this examinant in the sum of five hundred pounds, and that the said W. S. as this examinant verily believes, was a trader within the description of the statutes relating to bankrupts, and this examinant further saith, that the said W. S. hath not paid, secured or compounded the said debt, or entered into any bond to pay such sum as should be recovered in the action in pursuance of, and according to the directions of the said act of parliament, to the knowledge or belief of this examinant; And this examinant John Cox for himself saith, that he did, on the said      day of file of record in the said court of King's Bench, the said affidt. so sworn by the said other examinant Gyles Simpson, as aforesaid, and that he did on the      day of      sue out of the King's Bench a summons against the said W. S. and on the next day being the      day of now last past, served him the said W. S. personally with a copy thereof.

Gyles Simpson.

In case you cannot prevail on the witnesses to attend, in order to prove the trading or act of bankruptcy, you must get the following warrant from the comrs. viz.

Summons



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*Summons for Witnesses.*

By virtue of his majesty's comm. under the great seal of Great Britain, grounded upon the several statutes made concerning bankrupts, awarded against W. S. of, &c. directed to us the major part of the comrs. therein named, who have hereunto set our names, and to others, These are to will and require you and every of you, to whom this our summons is directed, personally to be and appear before us the said comrs. on sight thereof (or at any particular hour or day) at the Rolls coffee-house in Chancery-lane, then and there to be examined by us, by virtue of the said comm. and the several statutes therein mentioned. And hereof you are not to fail at your peril. Given under our hands this day of January 1774.

G. W. adi

S. B. adi

C. H. adi

To (the names of  
the witnesses.)

This summons the messenger will serve on the parties, by giving or leaving them a copy; and unless they come before the comrs. immediately, (if the summons requires them so to do,) they will order them to stand committed, for which purpose it will be necessary, upon proof of due service of the summons, to make out a mittimus, which may be as follows:

*Deposition of due Service of the Summons.*

George Surridge, one of the messengers to the honourable the commissioners of bankrupt, being sworn and examined, &c. upon his oath, saith, that he this examinant did, on the 20th day of this instant January, serve James Roman with the summons hereunto annexed, by personally (a) delivering to the said James Roman a true and examined (b) copy of the said summons, and at the same time shewing him the original summons subscribed with the respective hand writings of the major part of the commissioners in and by a commission of bankrupt awarded and issued, and now in prosecution, against W. S. late of, &c. which subscription was made by the said commissioners in the presence of this examinant: and this examinant further saith, that he did acquaint the said James Roman with the purport of the contents of the said summons, at the time of his serving him therewith as aforesaid.

G. S.

As the liberty of the subject depends on the regularity of the service, we think that cannot be too well ascertained: the above affidavit

(a) This summons need not be personally served: if it is not, then the affidavit must run thus; "by leaving with Hester Rock, at the dwelling-house of the said James Roman in Aldermanbury, London, a true and examined copy of the said summons, &c. and this examinant on his oath further saith, that the said Hester Rock is servant to the said James Roman, as he informed this examinant, and which information this examinant believes to be true: and this examinant further saith, that he hath since seen the said Hester Rock, who assured this examinant that she had personally delivered the copy of the said summons to the said James Roman; which last information this examinant also believes to be true."

(b) It is usual for the commissioners to sign all the copies to be served; it is absurd in every respect; for no proper deposition can then be made: it may be difficult to meet with the commissioners to sign so many copies as may be wanted, it enough happen not to be signed at their sitting; besides it is contrary to the usual practice of service in all other cases. Some commissioners are content with the oath of the service made before them by the party serving *viva voce*; but we submit that such an irregular proceeding is not at all safe in so penal a contumacy.

is so drawn as to be a proper precedent in case the same commissioners who are about to make out the *mittimus* did not sign the summons.

*A mittimus to apprehend and commit a Person to Gaol, who refused to attend, in order to give Evidence relative to the Act of Bankruptcy, upon having been summoned.*

Whereas his majesty's comm. under the great seal of Great Britain bearing date the — day of — last past, at Westminster, grounded on the several statutes concerning bankrupts, hath been awarded and issued against W. S. of, &c. directed to us who have hereunto set our seals, and subscribed our names, and to R. C. esq. and F. D. gent. and we being the major part of the comrs. therein named, (one whereof is of the *quorum*) having taken upon us the execution of the said comm. and it appearing to us that the act of bankruptcy intended to be proved against the said W. S. is his lying in prison two months upon an arrest for debt; and that J. W. officer to the sheriff of Middlesex, was the person who arrested the said W. S. on which arrest the said W. S. lay in prison two months as aforesaid; and that the said J. W. was duly summoned to appear before us, but hath made default, in contempt of our authority, and of the statutes, and also of the comm. aforesaid, and the authority thereby to us given; These are therefore to will, require and authorize you, and every of you, immediately upon receipt hereof, to apprehend, arrest, and take into your custody the body of the said J. W. and him safely to convey to his majesty's gaol of Newgate, and him there to deliver to the keeper of the said gaol, who is hereby required and authorized by virtue of the said comm. and statutes aforesaid, to receive the said J. W. into his custody, and him safely to keep and detain without bail or mainprize, until he shall submit himself to be examined according to the true intent of the statutes, and be thence delivered by due course of law; and for your so doing, this shall be your sufficient warrant, given under our hands and seals the — day of — in the year of our Lord 1774.

To the (messengers men, or any persons  
the comrs. think proper to direct  
it;) and also to Richard Aker  
man, keeper of his majesty's gaol of  
Newgate.

FH

G. W. (L. S.)

MVSEVM. A. (L. S.)

C. H. (L. S.)

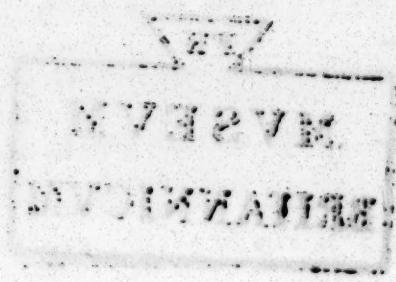
BRITANNICVM

Nº 6. At the Crown and Rolls, as before.

Memorandum, we whose names are hereunto subscribed,  
*Memorandum of* being the major part of the comrs. named and authorized in  
*finding the party* a comm. of bankrupt awarded against W. S. of —, bearing  
*bankrupt.* date at Westminster the — day of — in the — year of  
his present majesty's reign, having begun to put the said comm.  
in execution, upon examination of witnesses upon oath taken before us, do find that the said W. S. did, before the date and suing forth of the said comm. become bankrupt within the true intent and meaning of the several statutes made and now in force concerning bankrupts, some or one of them, and we do accordingly adjudge and declare the said W. S. bankrupt to all intents and purposes. Witness our hands this 20th day of March, 1774.

G. W.  
S. B.  
C. H.

Or



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Or thus.

We G. W. S. B. and C. H. the major part of the comrs. named and authorized in a comn. of bankruptcy issued against W. S. upon good proof upon oath before us had and taken, have found that the said W. S. hath carried on and exercised the trade and business of a sugar refiner, for the space of two years and upwards last past; and also that the said W. S. is become a bankrupt within some one or more of the statutes made and now in force concerning bankrupts, and before the date and suing forth of the said comn. and we do declare him the said W. S. a bankrupt accordingly.

*The messenger will pay for the room, and advertise the bankruptcy according to the comrs. warrant, &c.*

### *The Advertisement.*

Whereas a comn. of bankruptcy is awarded and issued against W. S. of \_\_\_\_\_ and he being declared a bankrupt, is hereby required to surrender himself to the comrs. in the said comn. named, or the major part of them on the \_\_\_\_\_ and \_\_\_\_\_ of \_\_\_\_\_ next, and on the \_\_\_\_\_ day of \_\_\_\_\_ following at three o'clock in the afternoon of each of the said days at Guildhall, London, and make a full discovery and disclosure of his estate and effects; when and where the creditors are to come prepared to prove their debts; and at the second fitting to chuse assignees; and at the last fitting the said bankrupt is required to finish his examination, and the credrs. are to assent to, or dissent from, the allowance of his certificate. All persons indebted to the said bankrupt, or that have any of his effects, are not to pay or deliver the same but to whom the comrs. shall appoint, but to give notice to (*usually the solr.*) in, &c.

### *A Warrant of Seizure.*

Whereas his majesty's comn under the great seal of Great Britain, grounded upon the several statutes made concerning bankrupts, bearing G. (L.S.) W. date at Westminster the same day with this our warrant, hath been awarded against W. S. of, &c. directed unto us, who have hereunto set our hands and seals, together with R. C. esq. and F. D. gent. and we being the major part of the comrs. named and authorized by virtue of the said comn. having begun to put the said comn. in execution, upon due examination of witnesses, and other good proof upon oath before us taken, have found that he the said W. S. did for several years last past, use and exercise the trade of a sugar refiner, in buying molasses, refining the same, and in selling the same when so refined in the way of his trade as aforesaid, and have also found that he the said W. S. by reason of such his dealing, became indebted to J. H. of, &c. in the sum of 300 l. and being so indebted as aforesaid, he the S. (L.S.) B. said W. S. became bankrupt to all intents and purposes, within the true intent and meaning of the several statutes made against bankrupts, some or one of them, before the date and suing forth of the said comn. These are therefore, by virtue of the said comn. and the several statutes therein mentioned, to will and require, authorize and empower you, and every ~~or~~ you, to whom this our warrant is directed, forthwith to enter into and open the house and houses of him the said W. S. and also into all other place and

places belonging to him the said *W. S.*, where any of his goods are, or are suspected to be, and there seize all the ready money, jewels, plate, household stuff, goods, merchandizes, books of account, and all other things whatsoever, belonging to him the said *W. S.*. And such things as you shall so seize, you shall cause to be inventoried, and appraised by honest men of skill and judgment, and the same you shall return to us with all convenient speed; and what you shall so seize you shall safely detain and keep in your possession, until we shall give you order for the disposal thereof; and in case of resistance, or of not having the key or keys of any door or lock belonging to any place or places of him the said *W. S.* where any of his goods are, or are suspected to be, you shall break open, or cause the same to be broke open, for the better

*C. (L.S.) H.* execution of this our warrant. Given under our hands and seals this day of in the year of our Lord 1774.

To ——— our messenger, and to all mayors, bailiffs, constables, headboroughs, and all other his majesty's loving subjects, whom we require to be aiding and assisting in the execution of this our warrant, as occasion shall require.

At the first meeting at Guildhall there is seldom any thing more to be done, than to take depositions of such credit. debts who then appear, and to make a memorandum of the bankrupt's surrendering himself, or not; 'tis best to be provided with a sufficient number of blank depositions; for if they are not used now, they may at the second or third meeting; write two or three on a sheet, as follows, and let each creditor sign his deposition.

### Nº 7. At Guildhall, London, March 28th, 1774.

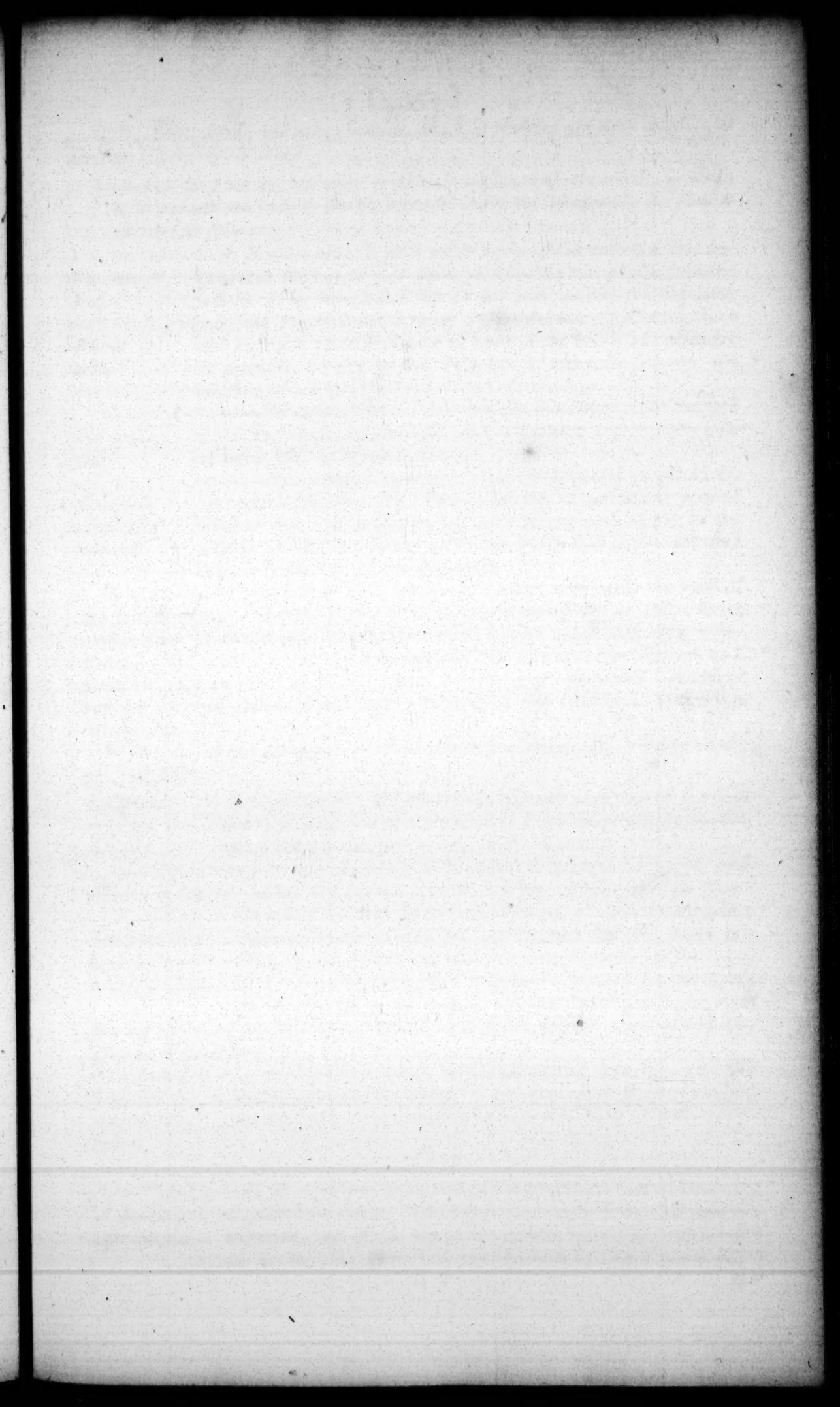
*A. B.* of ——— being sworn and examined the day and *Deposition of a* year above-said, upon his oath faith, that *W. S.* the person against whom the comn of bankrupt is awarded, was before the date and suing forth of the said comn. and still is justly and truly indebted unto him this deponent in the sum of ——— for ——— for which said sum or any part thereof this deponent hath not received any security or satisfaction whatsoever.

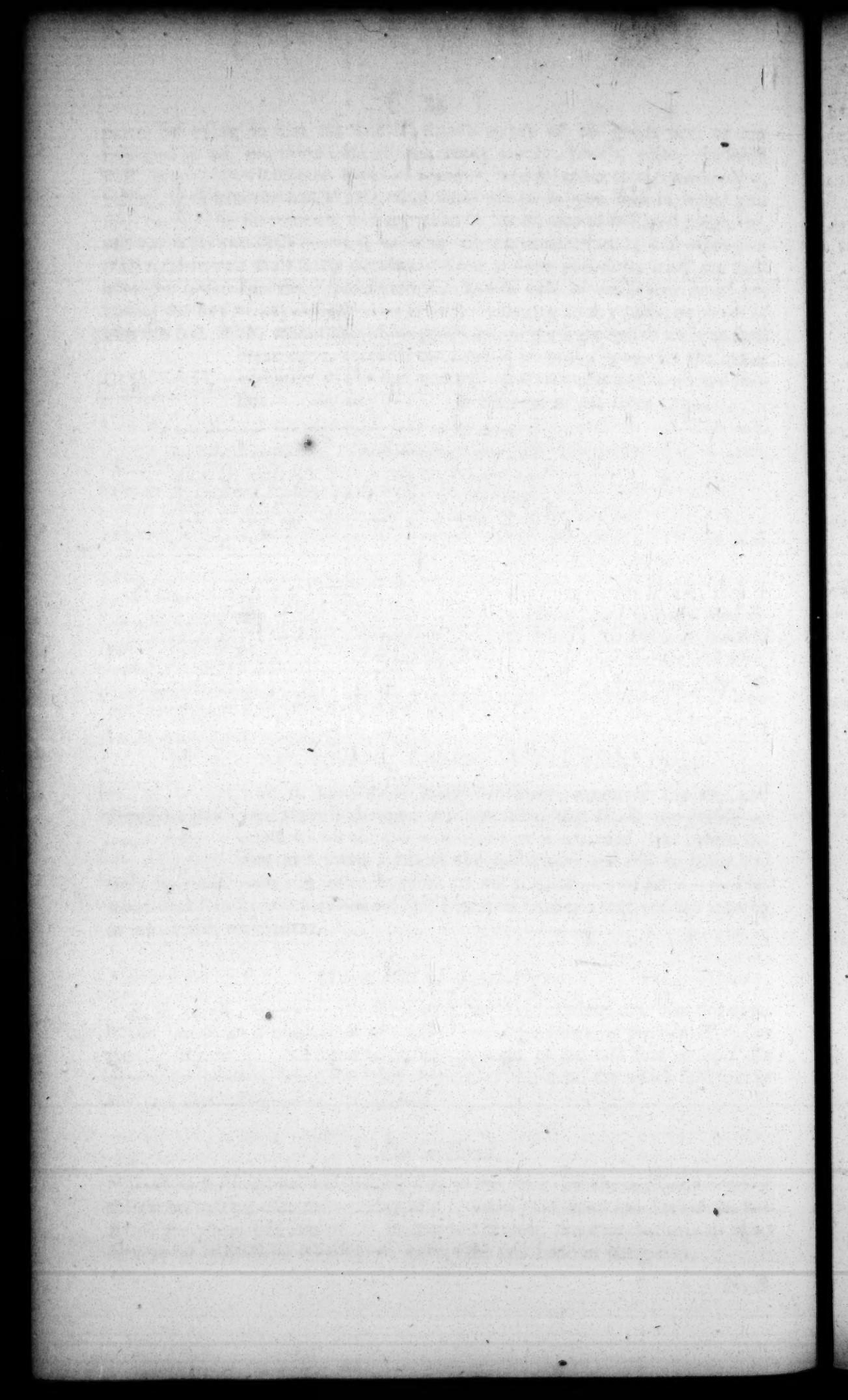
### On a Bill of Exchange.

*R. B.* of *&c.* ——— and still is justly and truly indebted unto him this dept. in the sum of 40*l.* on account of a bill of exchange drawn by the said *W. S.* on the day of last upon *C. D.* for payment of the said sum of 40*l.* six days after the date, being for value received of this dept. for which said sum or any part thereof ——— (*as before.*)

### On a Bond.

——— for principal and interest due to this dept. by virtue of one bond or obligation bearing date the day of under the hand and seal of the said *W. S.* for which said sum of ——— or any part thereof, this dept. hath received no security or satisfaction whatsoever, except the said bond or obligation.





N. B. Bills, bonds, and other securities should be produced and made exhibits, at the time of proving the debt.

These must be filled up according to the circumstances of the credit's demand; if he has had any security for his debt, or any thing on account, the same is excepted as follows:

A. B. — &c. is justly and truly indebted unto him this deponent in the sum of 14 l. for money lent by this deponent to the said W. S. for which said sum or any part thereof, this deponent hath not received any security or satisfaction whatsoever, save Except a note, and except a promissory note of hand of the said W. S. whereby he promised to pay to this deponent or order, on demand, the said sum of 14 l.

For goods sold and delivered by this deponent to the said W. S. for which said sum, &c. save and except a promissory note of hand, &c. as above.

For money lent, or goods sold and delivered to one C. D. for which said sum, &c. save and except a promissory note of hand of the said bankrupt, whereby he promised to pay to the said C. D. the said sum of 14 l. and which said note is indorsed by the said C. D. to this deponent.

Or thus. — In the sum of 14 l. upon a promissory note under the hand of the said bankrupt, whereby he promised to pay to one C. D. or order, three months after the date thereof, the said sum of 14 l. and which said note is indorsed by the said C. D. to this deponent, in consideration of the sum of 14 l. therefore paid to the said C. D. by him this deponent; for which said sum or any part thereof this deponent hath not received any security or satisfaction whatsoever.

N. B. An indorsed note may be proved under several coverys, till the party thereby gets satisfied.

Exception of goods received. — Except that this deponent hath had and received of the said bankrupt, a quarter of a hundred of sugar amounting to — which reduces this dept's. debt to the sum of —

For money lent and advanced by this dept. to the said bankrupt, and also in the sum of — for the interest thereof, making together the sum of — for which said sum, &c. save and except one bond bearing date the — day of — entered into by the said W. S. to this dept. in the penal sum of — conditioned for the payment of — unto this dept. with lawful interest for the same; and also except a warrant of attorney bearing date the same day for confessing a judgment on the said bond in his majesty's court of common pléas at Westminster.

Exception of a bond and a judgment obtained. — Save and except one bond bearing date, &c. and also except a judgment obtained by this dept. as of Hilary term last, on the said bond, in his majesty's court of king's bench.

### N° 8.

A. B. of — being one of the people called quakers, being examined the day and year abovesaid, on his solemn affirmation, affirmeth, that W. S. the person against whom, &c. on balance of accounts for goods sold and delivered by this affirmand to the

said W. S. for which said sum or any part thereof, this affirmand hath not received any security or satisfaction whatsoever.

Justly and truly indebted unto him this dept. and his  
*By a partner.* partners C. D. and E. F. in the sum of —— for goods sold and delivered by this dept and his said partners to the said bankrupt, or which said sum of —— this dept. or his said partners or either of them, to the knowledge and belief of this dept. hath not received any part, nor hath this dept. or his said partners or either of them, had or received any security or satisfaction for the same or any part thereof, to the knowledge and belief of this deponent?

*By a bankrupt* J. T. late of —— a bankrupt, being sworn and examined upon his oath saith, that the said W. S. is justly and truly indebted to A. B. and C. D. as assignees of the estate and effects of him the said J. T. in the sum of —— for goods sold and delivered to assignee. the said W. S. by the said J. T. before he became a bankrupt, and of such said sum of —— this dept. hath not received any part, or any security or satisfaction for the same, or any part thereof.

*A. B. of —— &c.* indebted unto him this dept. in the sum of —— for divers sums of money, for goods sold and delivered by this dept. to the said bankrupt; and also in the further sum of —— for money lent by this dept. to the said bankrupt; and also in the sum of —— for the interest of those two sums; and also in the further sum of 12 £. for money paid by this dept. to and for the use of the said bankrupt and by his order, which said several sums of money amount together to the sum of —— and of which said sum of —— this dept. hath not received any part, nor hath this dept. had or received any security or satisfaction for the same. Except a note or any part thereof, except one promissory note, &c. and also and bond.

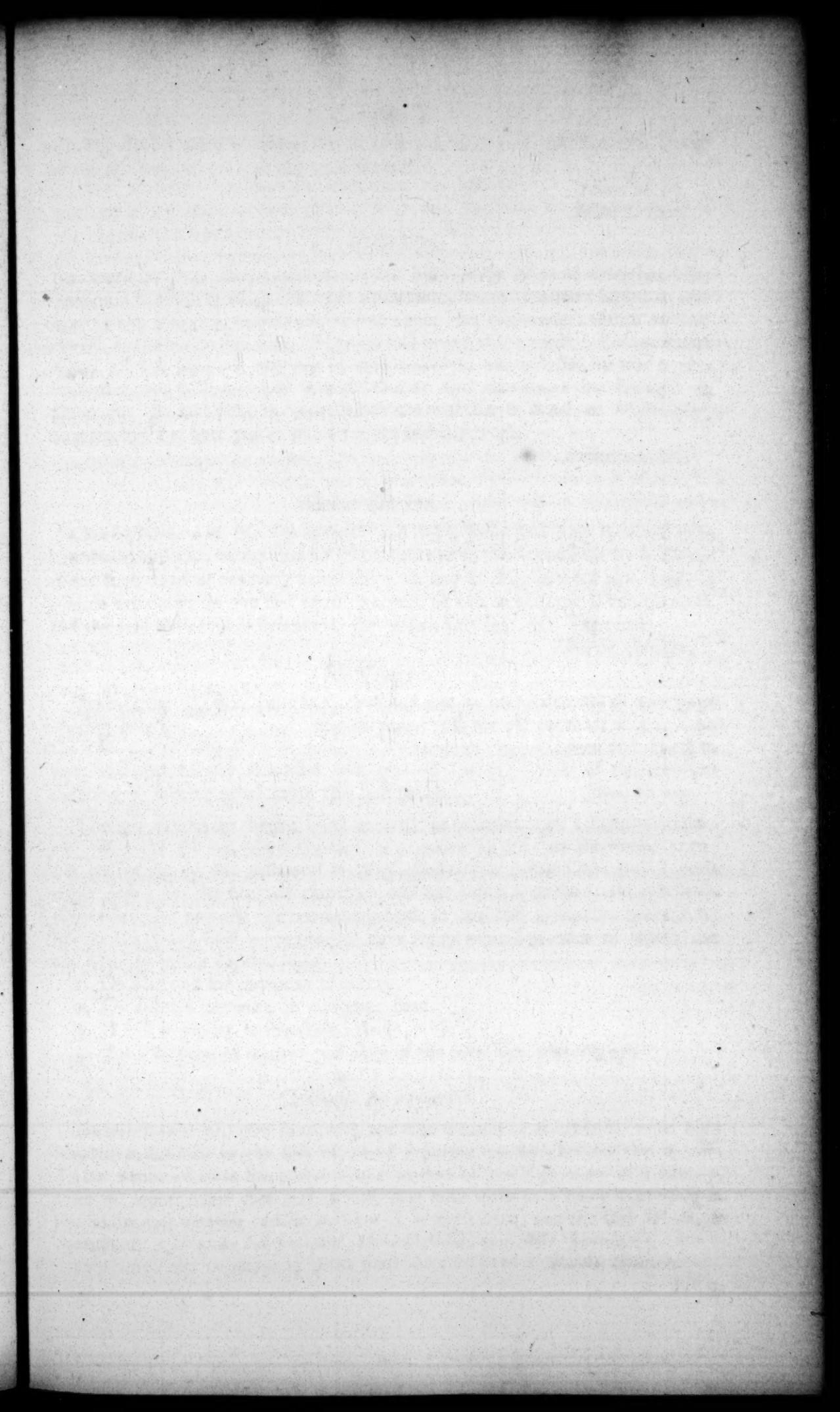
### *Administratrix.*

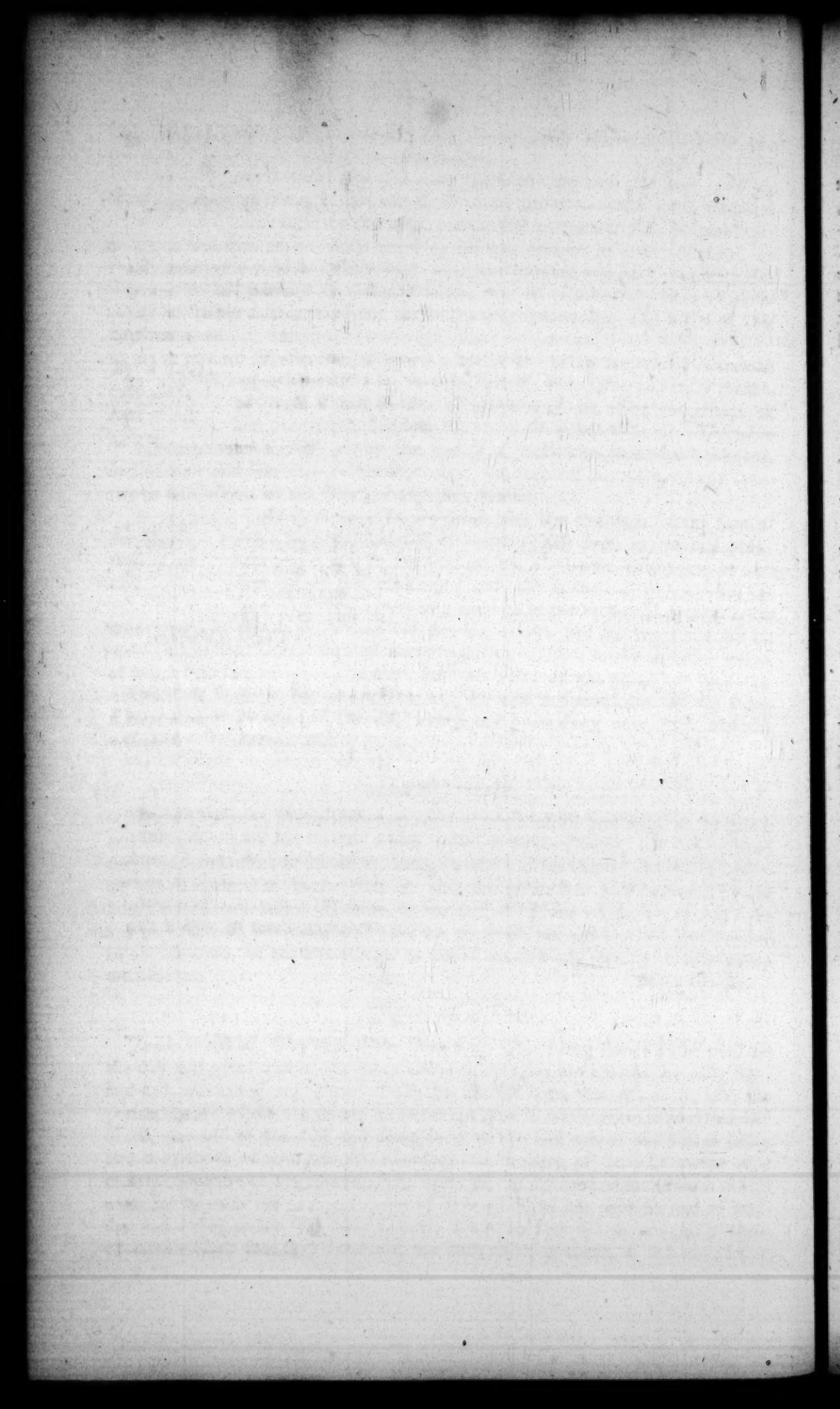
Mary Combes of, &c. widow and administratrix of all and singular the goods and chattels, rights and credits, which were of James Combes, her late husband deceased, at the time of his death, being sworn, &c. (as above) and still is indebted to this examinant in the sum of 10 £. for goods sold and delivered by the said James Combes in his life-time, to the said W. S. for which sum of 100 £. or any part thereof, this examinant hath not received, nor did her said late husband in his life-time, to her knowledge or belief, receive any security or satisfaction whatsoever.

Mary Combes.

### *Assignee of a Debt.*

James Welsh of, &c. and Miles Crouch of, &c. being sworn and examined the day and year, and at the place above-said, upon their oaths severally say; and first, this examinant James Welsh, for himself saith, that W. S. of, &c. the person against whom the comn. of bankrupt now in prosecution is awarded and issued, was before the date and suing forth of the said comn. and still is justly and truly indebted unto him this examinant in the sum of 30 £. by virtue of a certain indenture of assignment, duly executed by the said Miles Crouch to this examinant, dated the day of June 1768. of one debt or sum of 30 £. due and owing to the said Miles Crouch, from the said W. S. and both these examinants say, that they have not, nor hath either of them, to the knowledge or





or belief of the other of them, received any security or satisfaction whatsoever for the said sum of 30*l.* or any part thereof.

*James Welsh,  
Miles Crouch.*

*Attorney.*

*Edward Smith of, &c. [as usual to] and still is justly indebted unto him this examinant in the sum of 40*l.* for the attendance, fees, and monies laid out, and expended by him this examinant, in and about the affairs and business of the said W. S. for which said sum, &c. [as usual] save a note signed A. Sidney, dated August 18 last for 20*l.* payable to the bankrupt, and indorsed by him to this examinant, and also save and except that he this examinant has brought an action for the said debt in his majesty's court of King's Bench, at Westminster, wherein bail has been put in above for the said bankrupt.*

*Edward Smith.*

*On a Decree.*

*Charles Meriton of, &c. [as before] and still is justly and truly indebted unto him this examinant, in the sum of 500*l.* decreed to this examinant by a decree of the high court of chancery dated the 11th day of May now last past, made in a cause depending in the said court wherein he this examinant is complainant, and the said bankrupt is defendant, for which said sum, &c. [as usual].*

*Charles Meriton.*

*Mortgagee.*

*Jonas Strong of, &c. [as usual] save and except one indenture of mortgage bearing date the                      day of June 1768, for the payment of 420*l.* on the 22d. day of August 1768, which said mortgage this examinant doth agree to sign, and doth hereby furrender and give up for the benefit of the creditors claiming or seeking relief under the said comn.                      Jonas Strong.*

Though a creditor hath a bond as well as a mortgage, I believe modern commissioners will not admit the creditor to prove his debt on the bond, without delivering up his collateral security, under the commission, but I think *minus justis*; for the court of chancery will not injoin a creditor, though he is proceeding for one and the same debt, both at law and in equity, because the law hath allowed such a creditor to have many remedies, none of which can any court of justice deprive him.

1. On his bond for payment of money.
2. On debtors covenant in mortgage deed.
3. A bill in equity to foreclose. And
4. An ejectment to recover possession of the premisses in mortgage.

*Creditor by report.*

*Daniel Goodyer of, &c. [as usual] and still is justly and truly indebted unto him this examinant in the sum of 100*l.* reported due to him from the said W. S. by Thomas Cuddon Esq; one of the masters of the high court of Chancery, as by his report dated the 20th day of May last, made in a cause depending in the said court, wherein this examinant is complainant, and the said W. S. is defendant, may more fully appear, for which said sum, &c. [as usual].*

*Daniel Goodyer.*

Nº 9.

No. 9.

*An affidavit of A. B. of \_\_\_\_\_ in the county of \_\_\_\_\_ maketh oath, that W. S. late of \_\_\_\_\_ in the county of Middlesex sugar refiner, debt sworn in the person against whom a comm. of bankrupt hath been lately awarded, was before the date and suing forth of the said comm. exhibited, and still is justly and truly indebted unto him this dept. in the sum of \_\_\_\_\_ for \_\_\_\_\_ and this deponent saith, that he hath not had or received the said sum of \_\_\_\_\_ or any part thereof, or any security or satisfaction for the same, but that the same still remains due and owing to this dept. from the said W. S. and his estate as aforesaid.*

*No. 9. At Gildball, March 28, 1774. Exhibited to us the \_\_\_\_\_ day of \_\_\_\_\_ 1774.*

*Memorandum, that on the day and year, and at the place above mentioned, A. B. of, &c. claimed a debt under the comm. of bankrupt awarded and issued against W. S. of, &c. of 16 l. to be due, from the bankrupt to (the person for whom the claim is made), by note of hand.*

*No. 9. Debts may be proved and claimed any time before a dividend; but a claim is not sufficient till proof is made, to entitle the claimant to a share of a dividend.*

No. 10. At Gildball, London, March 28, 1774.

*Memorandum, that W. S. the person against whom the comm. of bankrupt hath been awarded, this 28th day of March 1774, voluntarily came and surrendered himself to us the major part of the comrs. named and authorized in and by the said comm. of bankrupt awarded against him, pursuant to notice in the London Gazette, for that purpose, and submitted to be examined, and in all things to conform himself to the directions of the several statutes made concerning bankrupts, and particularly to the late statute made in the fifth year of the reign of his late majesty king George the second, intituled, "An act to prevent the committing of frauds by bankrupts," in order to have the benefit of the said act, and the said W. S. being sworn and examined the day and year above-said, upon his oath saith, that he is not at present prepared to make a full disclosure and discovery of his estate and effects, but desires time for that purpose.*

W. S.

No. 11. At Guildhall, as before.

*Memorandum, that we the major part of the comrs. named in the comm. of bankrupt, awarded against W. S. pursuant to notice in the London Gazette, did meet on the day and year and at the place aforesaid, and the said bankrupt did not surrender himself to us.*

G. W.

C. H.

S. B.



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*A memorandum at the first sitting where nothing is done.*

Memorandum, that the major part of the comrs. named and authorized in and by a comm. of bankrupt, awarded and issued against W. S. of, &c. met G. W. here this day, pursuant to notice in the London Gazette, but the said S. B. bankrupt did not appear to surrender himself pursuant to such notice, C. H. nor any credr. to prove or claim any debt under the said comm.

N. B. If at this or any other meeting a new comr. attends, a memorandum must be made thereof, viz.

N° 12.

Memorandum, that R. C. esq; one of the comrs. named and authorized in and by the comm. of bankrupt awarded against the taking the W. S. of, &c. did, before he proceeded to act in the said comm. oath by a new take the oath of a comr. prescribed and specified in and by an commissioner. act of parliament passed in the fifth year of the reign of his majesty king George the second, intituled "An act to prevent the committing of frauds by bankrupts," according to the directions of the said act.

At the second meeting at Guildhall, blanks for depositions are to be prepared, and generally more credrs. appear at the second, than at the first sitting; after taking the depositions, the credrs. present, whose debts have been proved to be 10 l. or upwards, proceed to the choice of an assignee or assignees.

N° 13. At Guildhall, London, April 11th, 1774.

Memorandum, this being the day appointed in the London Gazette, for the choice of assignees of the estate and effects of W. S. the person against whom the comm. of bankrupt is awarded, we whose names are hereunder written, being the major part in value of the credrs. of the said W. S. present at this meeting, and who have proved our debts to be 10 l. or upwards, have chosen and do hereby nominate and chuse J. P. of \_\_\_\_\_ and C. D. of \_\_\_\_\_ to be assignees of the estate and effects of the said W. S. and we do hereby desire the comrs. to make an assignment thereof to them accordingly.

We accept of the said trust, and promise to execute a counter-part of the said assignment to the comrs.

J. P.

C. D.

A. B.

C. D.

E. F. by a letter of attorney from J. P. to him, dated, &c. the — day of —

Memorandum, That before the credrs. proceeded to the choice of assignees, they directed that the monies be received from time to time, as often as they amount to the sum of 100 l. should be paid into the hands of

## No 14. At Guildhall, London.

*Memorandum if only one creditor votes for the choice of assignee.*

Memorandum, this being the day appointed, &c. I A. B. (by virtue of a letter of attorney from J. H. if so) who have proved a debt of 300 £. and upwards under the said comn. and which is the major part in value of the debts proved under the said comn. Do nominate and chuse C. D. of — (or the said J. H.) to be assignee of the estate and effects of the said W. S. and do desire the said comrs. to make an assignment of the said bankrupt's estate and effects to the said C. D. accordingly. A. B.

I accept of the said trust, and

promise, &c.

C. D.

Or,

I do by virtue of the said letter of attorney accept, &c.

A. B. attorney for J. H.

## No 15.

Know all men by these presents, that J. H. of — in the county of — gent. have nominated, authorized and appointed, and by these presents do nominate, authorize and appoint A. B. of — my true and lawful attorney for me and in my name and on my behalf, to nominate and vote for any person or persons as he shall think proper to be assignee or assignees of the estate, goods, chattels, debts and effects of W. S. late of — against whom a comn. of bankrupt hath lately been awarded, and to act, do and perform whatsoever shall be needful and requisite to be done in, about or concerning the premises; and I do hereby ratify, confirm and allow, all and whatsoever my said attorney shall lawfully do or cause to be done for me by virtue of these presents, and of the power and authority hereby to him by me given. In witness whereof,

J. H.

Sealed and delivered (being first duly stamp'd) in the presence of

E. R.

M. R.

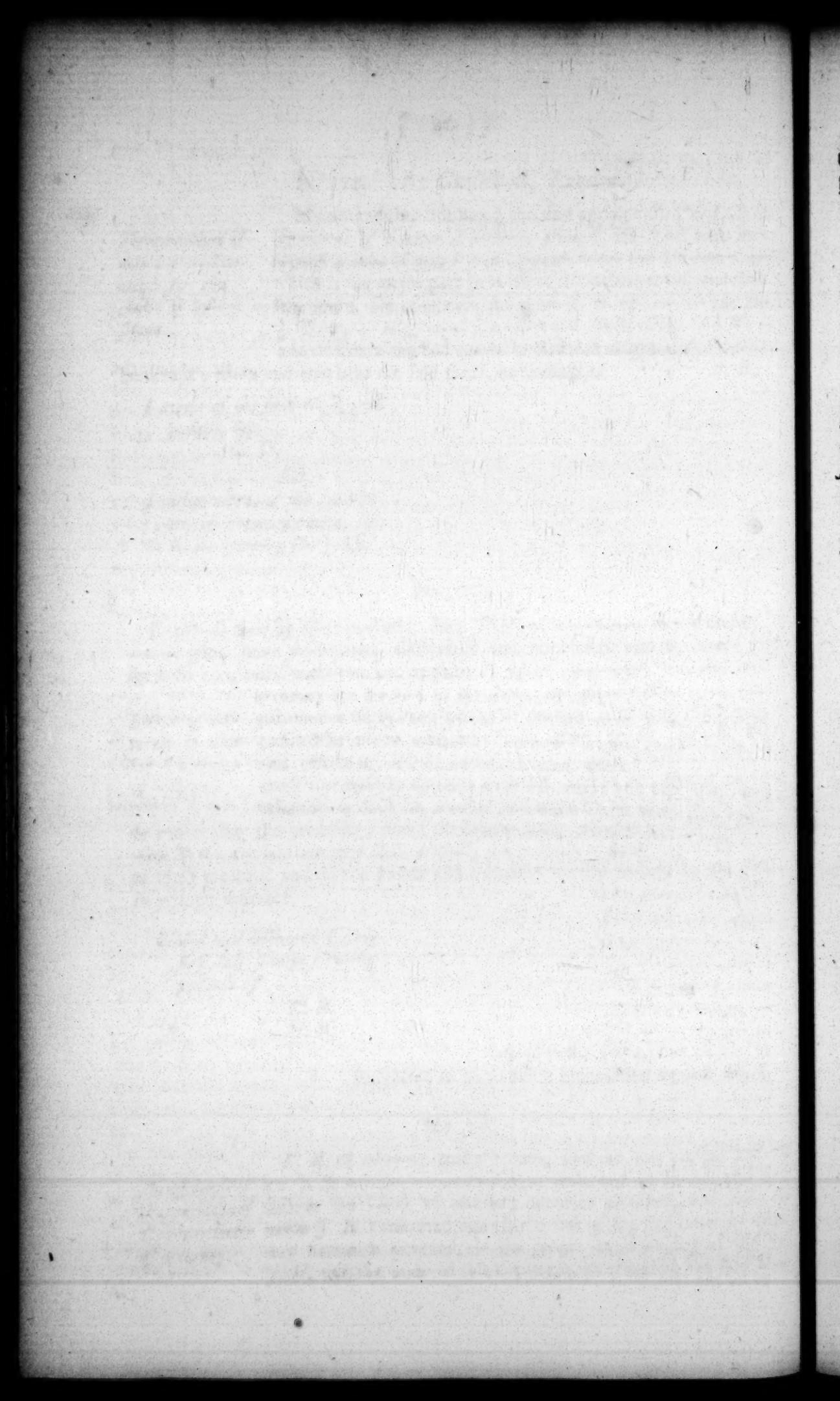
April 11th, 1774.

Exhibited to us under a commission against W. S.

## No 16.

E. R. of — maketh oath, that he was present and did An affidavit of see J. H. of — duly sign, seal, and as his act and deed the execution of deliver the letter of attorney hereunto annexed, and that the above letter name J. H. subscribed against the seal of the said letter of attorney. ney hereunto annexed, is the proper hand writing of the said J. H. and the name of this deponent subscribed to the said letter

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of attorney as a witness to the execution thereof, is of this deponent's own proper hand-writing.

B. R.

Sworn at — in the, &c. the — day  
of — in the year of — before

R. B.

Master in Chancery extraordinary.

April 11th, 1774.

Exhibited to us under a commission against W. S.

### No 17. At Guildhall, London, April 11th, 1774.

Memorandum, that W. S. the person against whom the Memorandum of comn. of bankrupt is awarded, being sworn and examined the bankrupt's before the major part of the comrs. in the said commission appearing at the named and authorized, the day and year above written, upon second sitting and his oath faith, that he is not at present prepared to make a full craving further and true disclosure and discovery of his estate and effects, and desires further time for the doing thereof, and for finishing his examination till the last day appointed in the London Gazette for that purpose, which is granted him accordingly

W. S.

If this second sitting is the first time of the bankrupt's surrendering himself, then the former memorandum is most proper to be used for this sitting.

If the bankrupt don't come and surrender himself at this second sitting, another memorandum must be made thereof; thus,

### No 18. At Guildhall, London, &c.

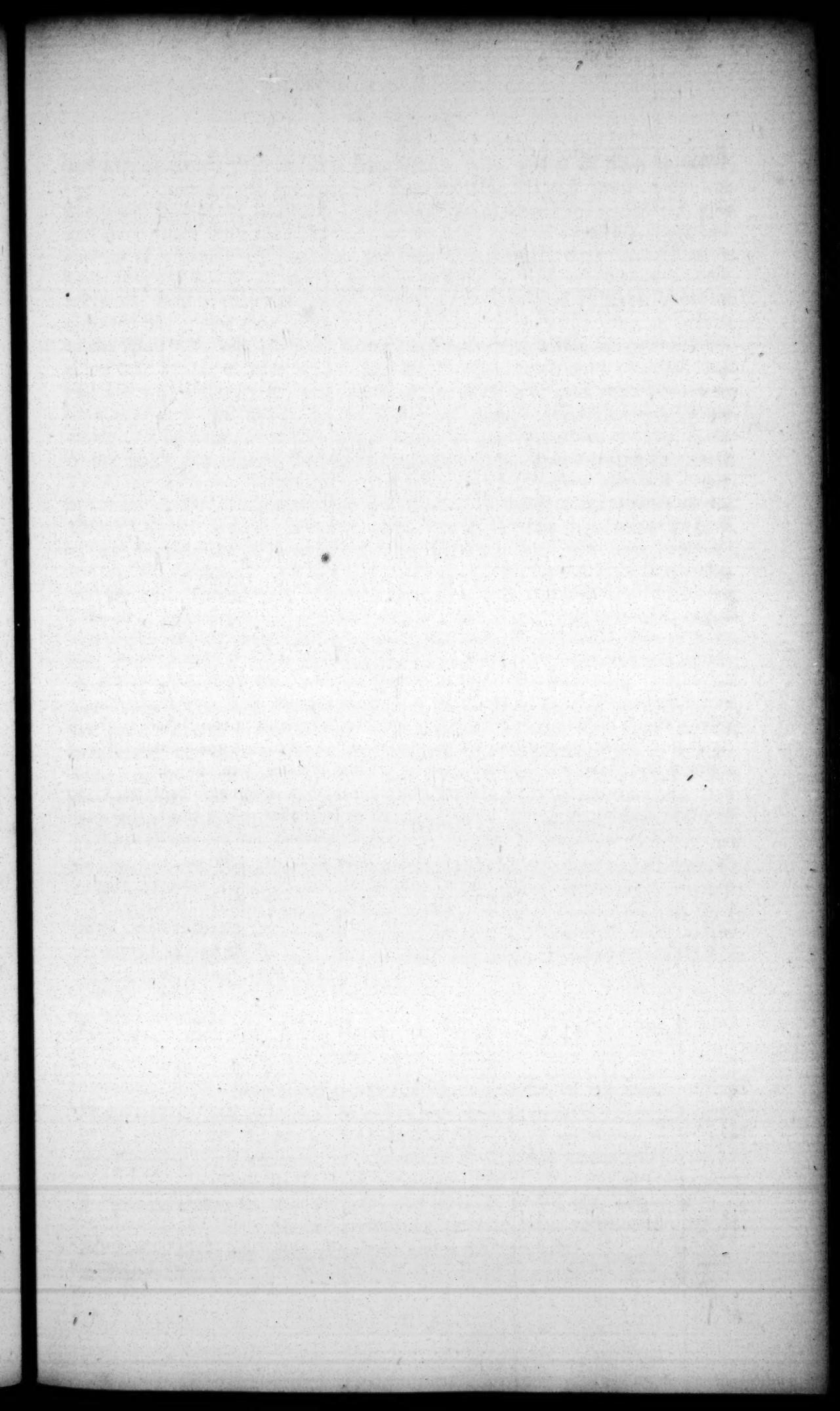
This being one of the days appointed in the London Ga. Memorandum of estate for W. S. the person against whom the comn. of banks is not appearing. rupt is awarded, to surrender himself to the comrs. in the said comn. named and authorized, he the said W. S. did not appear, nor send any reason for his not doing the same.

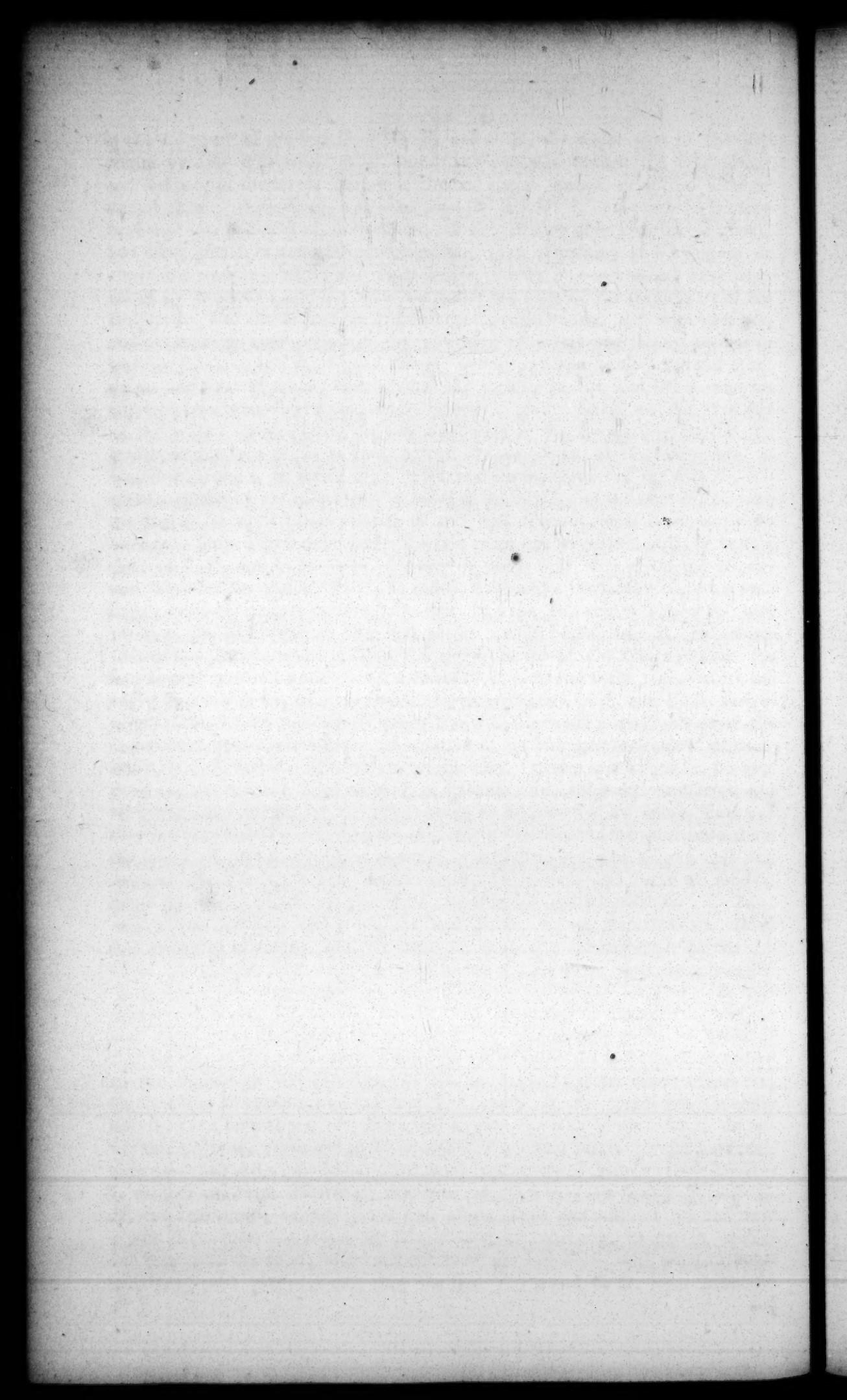
An assignment of the bankrupt's estate and effects to the assignee may be prepared and executed at this second sitting.

### No 19. An Assignment of the Bankrupt's Estate to the Assignees.

This indenture made the — day of — in the fourteenth year of the reign, &c. between G. W. esq. S. B. and C. H. gents. of the one part, and J. P. of — and C. D. of — of the other part. Whereas his majesty's comn. under the great seal of Great Britain, grounded upon the several statutes made and now in force concerning bankrupts, bearing date at Westminster, the — day of — last, hath been awarded and issued out against W. S. of — in the county of Middlesex, sugar refiner, directed unto the said G. W. S. B. and C. H. and also to R. C. esq. and F. D. gent. thereby giving full power and authority unto them the said comrs. four or three of them to execute the same, as in and by the said comn. relation being thereunto had, may more fully and at large appear: And whereas the said W. S. did for some time last past, before the date and suing forth of the said comn. use, exercise and carry on the trade and business of a sugar refiner, and thereby sought and endeavoured to get his living as others of the same trade and business are used to do, and that during such time of his the said W. S.'s trading and dealing as aforesaid, he the said W. S. became justly and truly indebted to J. H. of R. in the county of Y. gent. in the sum of 300/. and upwards, and being so indebted he the said W. S. did also before the date and suing forth of the said comn.

in the judgment of the said G. W. S. B. and C. H. the major part of the said comrs. became a bankrupt to all intents and purposes, within the true intent and meaning of the several statutes in the said comn. named, or within some or one of them: *And whereas* it appears, that the said W. S. at the time he became bankrupt was possessed of, interested in, or intitled unto divers household goods, and other goods, wares and merchandizes, then remaining and being in or about his dwelling-house and sugar-house, situate in — which have been seized by virtue of a warrant under the hands and seals of the major part of the said comrs. and also of and in diverse other goods, wares, and merchandizes, and other things now or late in the possession of divers and sundry persons in trust for him the said W. S. and also of, in and to divers book-debts and other debts, and sums of money due, owing and payable to the said W. S. and his estate by and from diverse and sundry persons: And whereas on the 11th day of this instant April, (being the day appointed in the London Gazette for the creditors of the said W. S. to come before the major part of the said comrs. at Guildhall, London, to prove their deb'ts and chuse assignees of the said W. S.'s estate and effects) the major part in value of the credrs. of the said W. S. who are credrs. for no less than the sum of 10/. and upwards respectively, and who have duly proved their deb'ts under the said comn. did nominate, elect, and chuse the said J. P. and C. D. to be assignees of the said W. S.'s estate and effects, and requested the said G. W. S. B. and C. H. to assign the same to them accordingly: Now this indenture witnesseth, that they the said comrs. parties to these presents, in pursuance of the said above recited comn. and of the statutes therein mentioned: and also for and in consideration of 5s. apiece to them the said comrs. parties hereto, in hand respectively well and truly paid, before the sealing and delivery of these presents by them the said J. P. and C. D. the receipt whereof is hereby acknowledged; and also for and in consideration of the covenants herein-after reserved and contained, on the part and behalf of them the said J. P. and C. D. their executors, administrators and assigns, to be kept done and performed; have ordered, bargained, sold, assigned, transferred and delivered, and by these presents do (as much as in them the said comrs. lies, and they lawfully may) order, bargain, sell, assign, transfer and set over unto them the said J. P. and C. D. their executors, administrators and assigns, all and singular the goods, wares, merchandizes, debts, sum and sums of money, estate and effects of him the said W. S. whatsoever and whersoever; To have and to hold, receive and enjoy the said goods, wares, merchandizes, debts, sum and sums of money, and all other the estate and effects herein before ordered, bargained, sold, assigned, transferred and set over, unto them the said J. P. and C. D. their executors, administrators and assigns for ever; In trust nevertheless to and for the use, benefit, and advantage of themselves, and all and every other the credrs. of the said W. S. who already have, or hereafter shall or may in due time come in and seek relief under the said comn. according to the limitations and directions of the said several statutes made concerning bankrupts as aforesaid; And the said J. P. and C. D. for themselves severally and for their several and respective heirs, executors and administrators, do covenant, promise, grant and agree to and with the said comrs. parties hereunto, their executors and administrators, and to and with every of them, by these presents in manner and form following; that is to say, that they the said J. P. and C. D. their executors, administrators and assigns, shall and will use his and their utmost endeavours and means by suit in law, or otherwise, to get in, collect and receive all the debts, estate and effects of the said W. S. with what care and speed they can; And also that they the said J. P. and C. D. their executors and





and administrators, shall and will from time to time, and at all times hereafter, upon reasonable request and notice to them for that purpose given under the hands and seals of the said comrs. in the said comn. named and authorized, give and render unto them the said comrs. or the major part of them, a just and true account of all and every such sum and sums of money, or other satisfaction, as he or they the said J. P. and C. D. their or either of their executors and administrators, shall or may have raised, obtained and received by force, virtue or means of this present deed of assignment or otherwise, out of the estate and effects of the said W. S. and all such money and other satisfaction as upon such account shall appear to have been raised, obtained and received as aforesaid, shall and will well and truly pay and deliver up, or cause to be paid and delivered up unto them the said comrs. in the said comn. named and authorized, or the major part of them, or to such other person or persons as they the said comrs. or the major part of them shall by writing under their hands direct and appoint; *To the end* the same, or such other satisfaction may be by them the said comrs. or the major part of them ordered and disposed, distributed and divided to and amongst all and singular the credrs. of the said W. S. who already have or shall, or may hereafter come in and seek relief under the said comn. proportionably to their several debts. And the said J. P. and C. D. for themselves severally, and for their several and respective executors and administrators, do further covenant, promise and agree to and with the said comrs. parties hereto, and to and with every of them, and their executors and administrators, that they the said J. P. and C. D. their and each of their executors, administrators and assigns, shall and will, from time to time and at all times hereafter, save, defend and keep harmless, as well the said comrs. parties to these presents in and by the said comn. named and authorized, or in any renewed commission to be named or authorized, and their executors and administrators, messengers, agents and servants, and every of them, as their and every of their goods, chattels, lands and tenements, of, from and against all and all manner of actions, suits, costs and damages whatsoever, that shall or may at any time or times hereafter arise, happen, or come unto them the said comrs. or any or either of them, or any or either of their executors or administrators, messengers, agents and servants, for or by reason or means of this present deed of assignment, or any other act, matter or thing by them, or either or any of them, lawfully acted or done by virtue of the said recited comn. or any renewed commission, or by their or any of their lawful intermeddling in, and of the estate and effects of the said W. S. In witness whereof the said parties, &c.

No 19. At the Chambers of G. W. Esquire, in C Inn,  
April 13th, 1774.

Memorandum, that we the major part of the comrs. named  
*Memorandum* and authorized in and by the comn. of bankrupt awarded against  
of executing W. S. met at the time and place above mentioned, and settled  
the assignment, and executed an assignment of the said bankrupt's estate and  
effects to J. P. of \_\_\_\_\_ and C. D. of \_\_\_\_\_ being  
the persons chosen for that purpose; and likewise settled the charges of suing  
out and prosecuting the said comn. to this time, by set-  
and settling clerks and tling the clerks and messengers bills. G. W.  
messengers bills. S. B.  
C. H.

At the third meeting at Guildhall, and every other meeting of the comrs. depositions ought to be ready for credrs. to prove their debts, though the principal business to be done at this sitting is for the bankrupt to finish his examination; and the credrs. to assent to, or dissent from the allowance of his certificate by the comrs.

No 20. At Guildhall, London, May 2d, 1774.

Memorandum, that W. S. the person against whom the Memorandum of comn. of bankrupt is awarded, appearing again before us the bankrupt's the major part of the comrs. in the said comn. named and examined, authorized, in order to finish his examination, pursuant to notice and discovery, in the *London Gazette* for that purpose given, and being now sworn and examined upon his oath faith, that the three several paper writings marked with the letters A. B. and C. and six shillings and two pence in money now delivered up to the comrs do contain a full and true disclosure and discovery of all his effects and estate real and personal, and how and in what manner, to whom and upon what consideration, and at what time or times, he hath disposed of, assigned, or transferred any of his goods, wares, merchandizes, monies, or other estate and effects, and all books, papers and writings relating thereto, of which he was possessed, or in or to which he was any ways interested, or intitled, or which any person or persons had or hath or have in trust for him, or for his use, at any time before or after the issuing out of the said comn. or whereby he or his family hath or have, or may have or expect any profit, possibility of profit, benefit or advantage whatsoever, except such part only of his estate and effects, as have been really and bona fide sold or disposed of in the way of his trade and dealings, and except such sums of money as have been laid out in the ordinary and necessary expence of himself and family; and this examinant further saith, that at the time of his former examination, and at this, the time of his last examination, he hath delivered up to the said comrs. or the major part of them, all such part of his this examinant's goods, wares, merchandizes, monies, estate and effects, and all books, papers and writings relating thereto, as at the time of such his former examination were or now are in his possession, custody or power (the necessary wearing apparel of this examinant, his wife and children, only excepted); and this examinant further saith, that he hath not removed, concealed or embezzled any part of his estate real or personal, or any books of accounts, papers or writings relating thereto, with intent to defraud his credrs. or whereby he expects or can receive any benefit to himself or family.

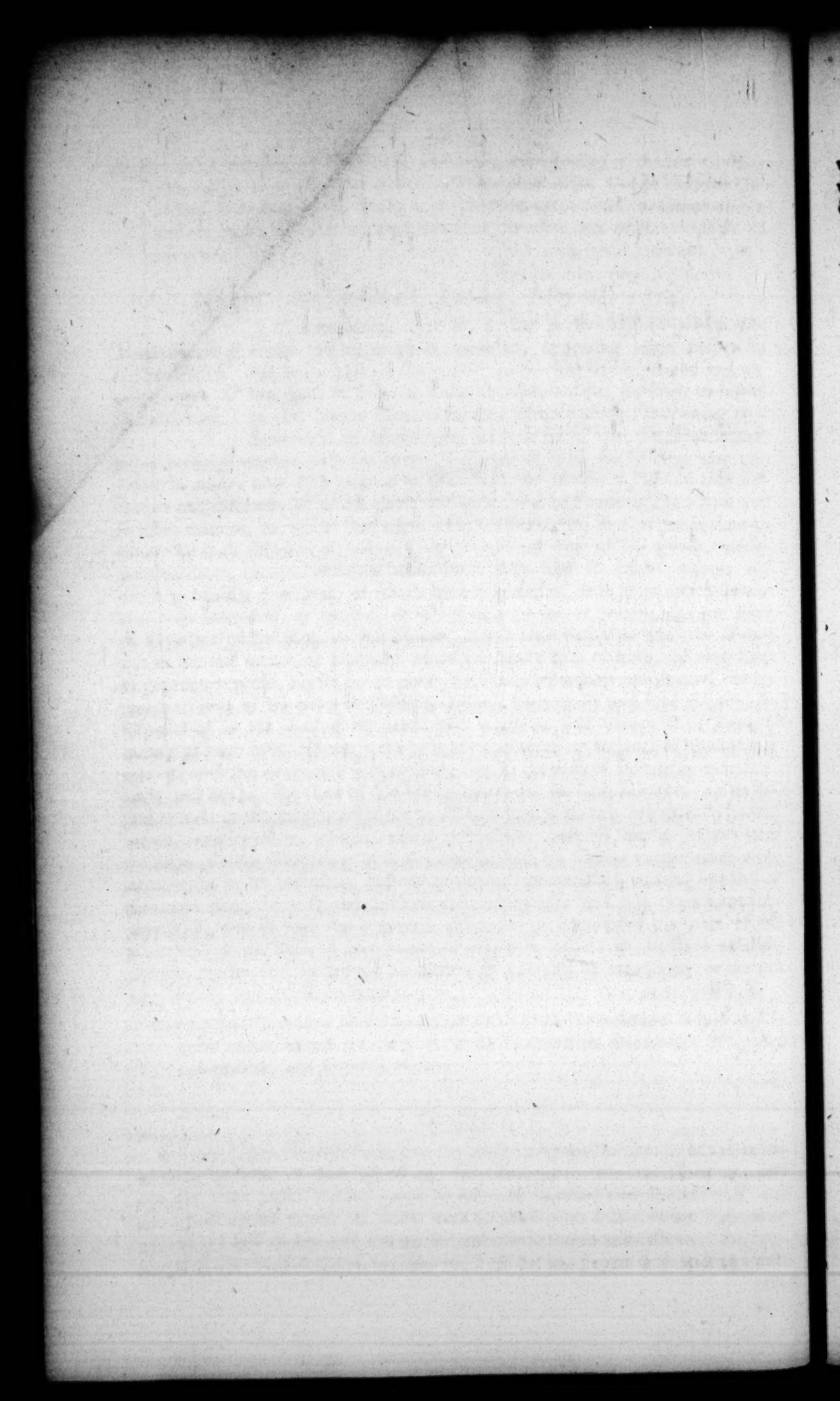
W. S.

*The bankrupt's accounts should be drawn up clear and satisfactory, which must be signed and delivered up by him to be filed amongst the proceedings, being first exhibited to, and signed by the comrs.*

Or thus.

Upon his oath faith, that the paper writings hereunto annexed marked with the letter A. and signed by this examinant under each column; and also the other paper writing hereunto annexed marked with the letter B. and also signed by this examinant under each column, and delivered by this examinant to the said comrs. and the goods and effects seized and taken by the messenger under the said comn. together with all books, papers and writings delivered





vered by this examinant to the assignees chosen under the said comm. together with the sum of —— one silver watch, and a pair of silver shoe buckles, &c. do contain a full and true disclosure and discovery, &c.

*If the bankrupt surrenders, but is a prisoner in execution, and therefore cannot attend the comrs. at Guildhall, prepare this memorandum.*

### *Adjournment to Prison where Bankrupt is in Execution.*

Memorandum, that the major part of the comrs. named and auth-

G. W. rized in and by a comm of bankrupt awarded and issued against W. S. of, &c. met here this day pursuant to notice in the *London Gazette*, in order to finish the bankrupt's last examination; but the said bankrupt being a prisoner in the King's Bench prison in execution, (or in a very ill state of health, and not able to attend here to be examined); we do therefore adjourn to the said prison of the King's Bench, to take the said bankrupt's examination.

### *Bankrupt's last Examination.*

*At the King's Bench prison by adjournment from Guildhall, London,*  
day of 1774.

—W. S. late of, &c. the person against whom the comm. is awarded, G. W. surrendered himself pursuant to notice in the *London Gazette* to the major part of the comrs. in and by the said comm. named and authorized, in order to make a full disclosure and discovery of his estate and effects, and in all things to conform himself to the several statutes hereunto made and now in force concerning bankrupts, and particularly to an act of parliament made in the fifth year of his late majesty's reign, intituled, "An act

S. B. "to prevent the committing of frauds by bankrupts." And the said W. S. being now again sworn and examined upon his oath, saith, that the several paper writings, marked with the letters A, B, both subscribed by this examinant, and exhibited before the said comrs. and several books of accounts belonging to this deponent, numbered 1, 2, 3. now in the possession or custody of the assignees chosen under the said comm. awarded against this examinant, together with what this examinant hath already.

C. H. at a former examination, given an account of, do contain a full and true account, disclosure and discovery of all this examinant's estate and effects, both real and personal, and how and in what manner, to whom, and upon what consideration, and at what time or times he has dis-

G. W. posed of, assigned or transferred all or any of his goods, wares, merchandizes, or other his estate and effects, and all books, papers and writings relating thereto, of which he was possessed, or in or to which he was any ways interested or intitled, or which any person or persons had, or hath, or have in trust for him this examinant, or for his use, at any time before or after the issuing of the said comm. or whereby he this examinant, or his family, hath, or have, or may have or expect any profit, possibility of profit, benefit or advantage whatsoever, except only such part of this examin-

S. B. ant's estate and effects, as have been really and bona fide before sold or disposed of in the way of his trade and dealing, and except such sums of money as have been laid out for this examinant's own expences, and in

in the ordinary expences of his family, and except what he hath spent in his necessary subsistence since the issuing of the said comn. and except the sum of 3 l. 6s. 3d.  $\frac{1}{2}$ , now delivered up unto the said assignees; and this examinant hath also delivered up unto the said comrs. by the said comn. authorized, or the major part of them, or to the assignees chosen under the same, all such part of his goods, wares, merchandizes, monies, estate and effects and all

C. H. books, papers and writings relating therunto, as at the time of this his examination, is or are, or at the time of his former ex-

G. W. amination, was or were in his possession, custody or power, his necessary wearing apparel only excepted. And this examinant further saith, that he hath not at any time before the issuing of the said comn. or at any time since, made any assignment, transfer, or other disposal of his goods, estate and effects, or any part thereof, to

S. B. any person or persons whatsoever, in trust for him this examinant, or whereby this examinant expects to have or receive any benefit whatsoever; nor hath this examinant removed, concealed, or embezzled, any part of his estate, real or personal, or any books

C. H. of account, papers or writings relating thereto, with intent to defraud his crdrs.

W. S.

*If the bankrupt is in custody on mesne process only, the comrs. grant a warrant to the gaoler to bring him up before them to be examined. See p.*

### Nº. 22. At Guidball, London, as above.

Memorandum, this being the day appointed in the *London Gazette* for *W. S.*, the person against whom the comr. bankrupt's not appearing at all to make a discovery, is awarded, to surrender himself to the comrs. in the said comn. named and authorized, and to make a full disclosure and discovery of all his estate and effects, the said *W. S.* did not attend, although we staid till past twelve of the clock.

If the bankrupt does not surrender at the third sitting, (which is always 42 days after notice in the *London Gazette*) he is guilty of felony without benefit of clergy; but the ld. chanr. may enlarge the time to 49 days, if the bankrupt applies for that purpose, which is usually done upon the following petition :

#### Petition for Time to surrender.

In matter of *W. S.* a  
bankrupt.

To the right hon. Henry lord *Astley*, &c.

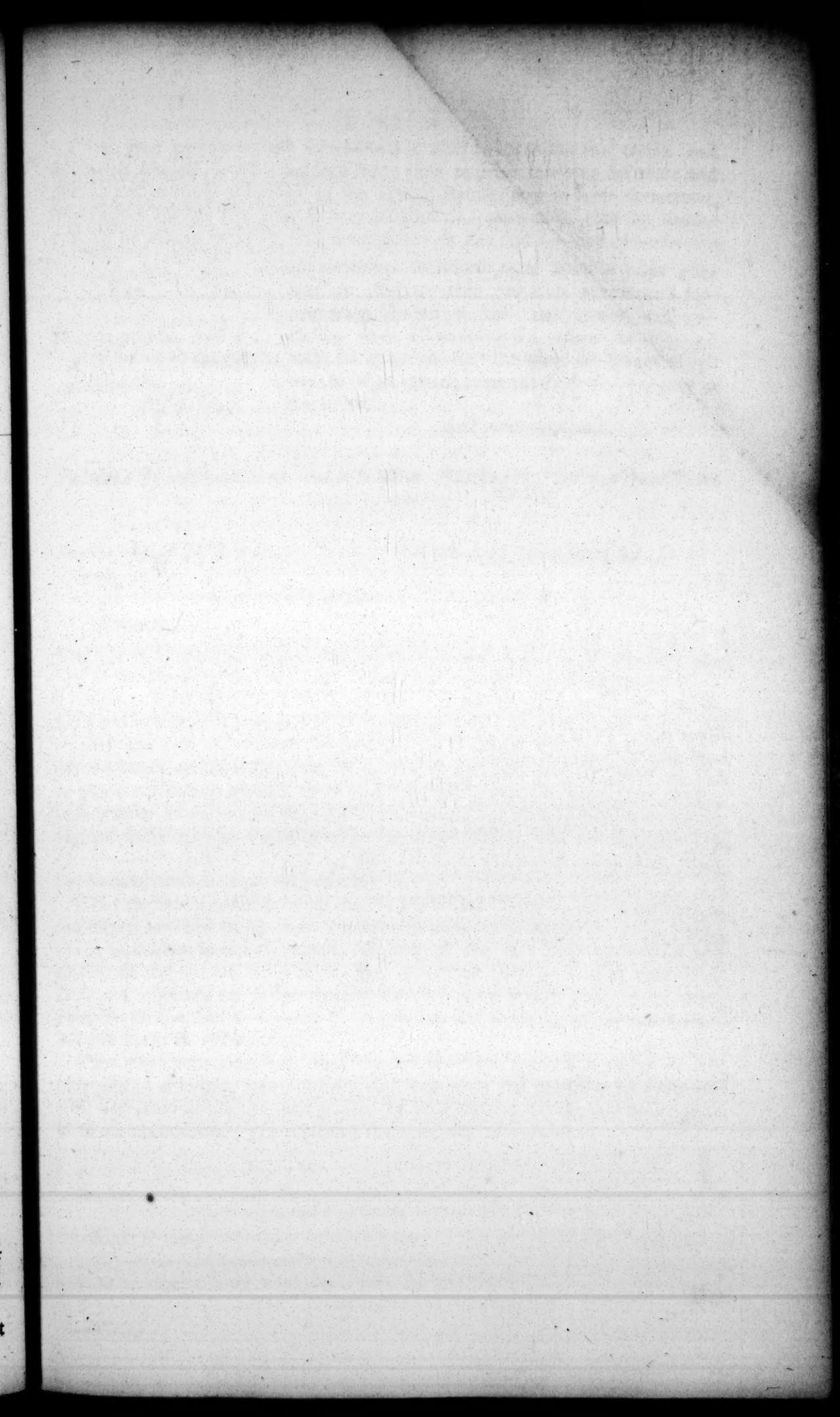
The humble petition of *W. S.* against whom a comn. of bankrupt hath lately issued,

*Sherweth,*

THA T on or about the \_\_\_\_\_ day of \_\_\_\_\_ last, a com. of bankrupt issued against your petitioner, directed to *G. W. R. C. S. B. C. H.* and *F. D.* and your petitioner was thereon declared a bankrupt.

That by an advertisement in the *London Gazette*, your petitioner is required to surrender himself to the said comrs. on the \_\_\_\_\_ day of \_\_\_\_\_ day of \_\_\_\_\_ day of \_\_\_\_\_ on the last of which said days your petitioner is required to surrender, and finish his examination.

That



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That your petitioner hath surrendered himself twice to the said comrs. and submitted himself to be examined from time to time touching his estate and effects, and to conform himself to the several statutes now in force concerning bankrupts; but his affairs are so very intricate and perplexed, that he cannot possibly be able to finish his said examination on the said — day of —

Day 1774. Your petitioner therefore most humbly prays your lordship, that the time for your petitioner's surrendering himself to the said comrs. and disclosing and discovering his estate and effects, &c. may be enlarged for the time or space of 50 days to be computed from the said — day of — forthwith.

Apsley, C. S. this instant.

And your petitioner, &c.

Petition by Assignees, on behalf of a Bankrupt, for further Time to surrender.

In a matter of W. S. a bankrupt.

To the right honourable, &c.

The humble petition of J. P. and C. D.

Sherweth,

THAT on the — day of — last a comm. of bankrupt under the great seal of Great Britain was awarded and issued against W. S. by name and description of W. S. esq. &c. and was directed to G. W. and R. C. esqrs. and S. B. C. H. and F. D. gents. as comrs. to execute the same.

That the said W. S. hath been declared a bankrupt, and by summons under the hands of the major part of the said comrs. and also by notice in the London Gazette, was required to surrender himself to the said comrs. to be examined by them at the several days and times therein particularly mentioned touching the disclosure and discovery of his estate and effects, and on the — day of — the said W. S. was by such summons and notice required to finish his examination under the said comm.

That the said bankrupt, being then in an ill state of health, and a prisoner in the Fleet, and not being then prepared to finish his examination, your petitioners, who have been duly chosen assignees of the said bankrupt's estate and effects, on the — day of — preferred their petition to your lordship, and obtained an order thereon for forty days further time, to be computed from the said — day of — for the said bankrupt to surrender himself and finish his examination.

That your petitioners find, that the said bankrupt, by reason of his ill state of health as aforesaid, hath not been able to prepare and compleat his examination, and inasmuch as the time granted by your lordship for the said bankrupt to finish his examination, will expire on the — day of —

Your petitioners therefore humbly  
pray your lordship, that the  
time for the said bankrupt's sur-  
rendering himself, and disclo-  
sing and discovering his estate  
and effects to the acting comrs.  
named, and finishing his ex-  
amination before them, may be  
further enlarged for the space  
of ten days, to be computed  
from the said —— day of ——

Day of

Let the time for the said *W. S.* the  
bankrupt's surrendering himself to the  
comrs. in the said comn. named, or the  
major part of them, and disclosing and  
discovering his estate and effects and  
finishing his examination before them, be  
further enlarged for the space of ten days,  
to be computed from the —— day of  
— — — Hereof give notice to the comrs.  
forthwith.

*Apsley, C. S.*

And your petitioners shall ever  
pray, &c.

### *Affidavit of the due Service of the said Petition.*

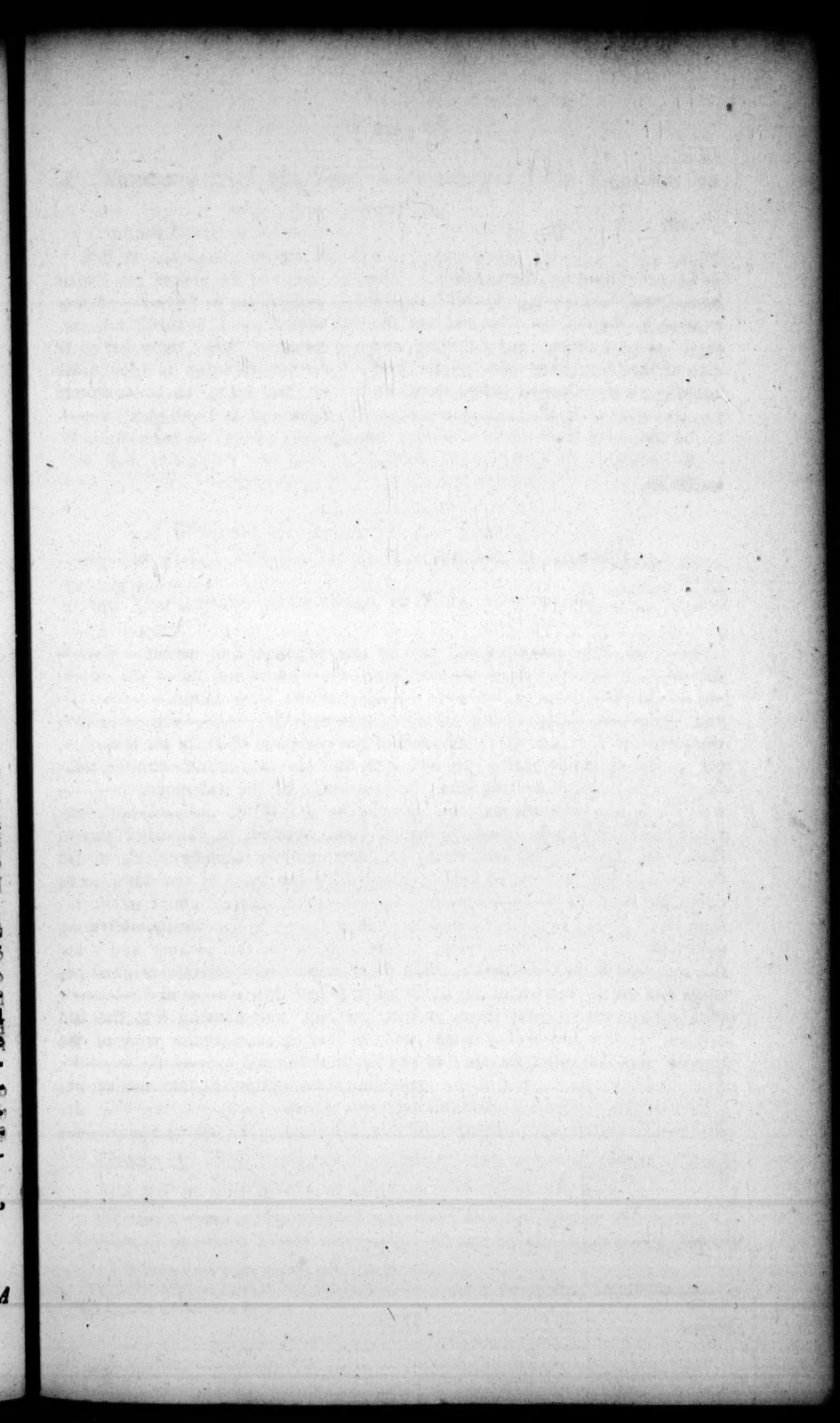
*In the matter of W. S. against whom a commission of bankrupt  
was issued.*

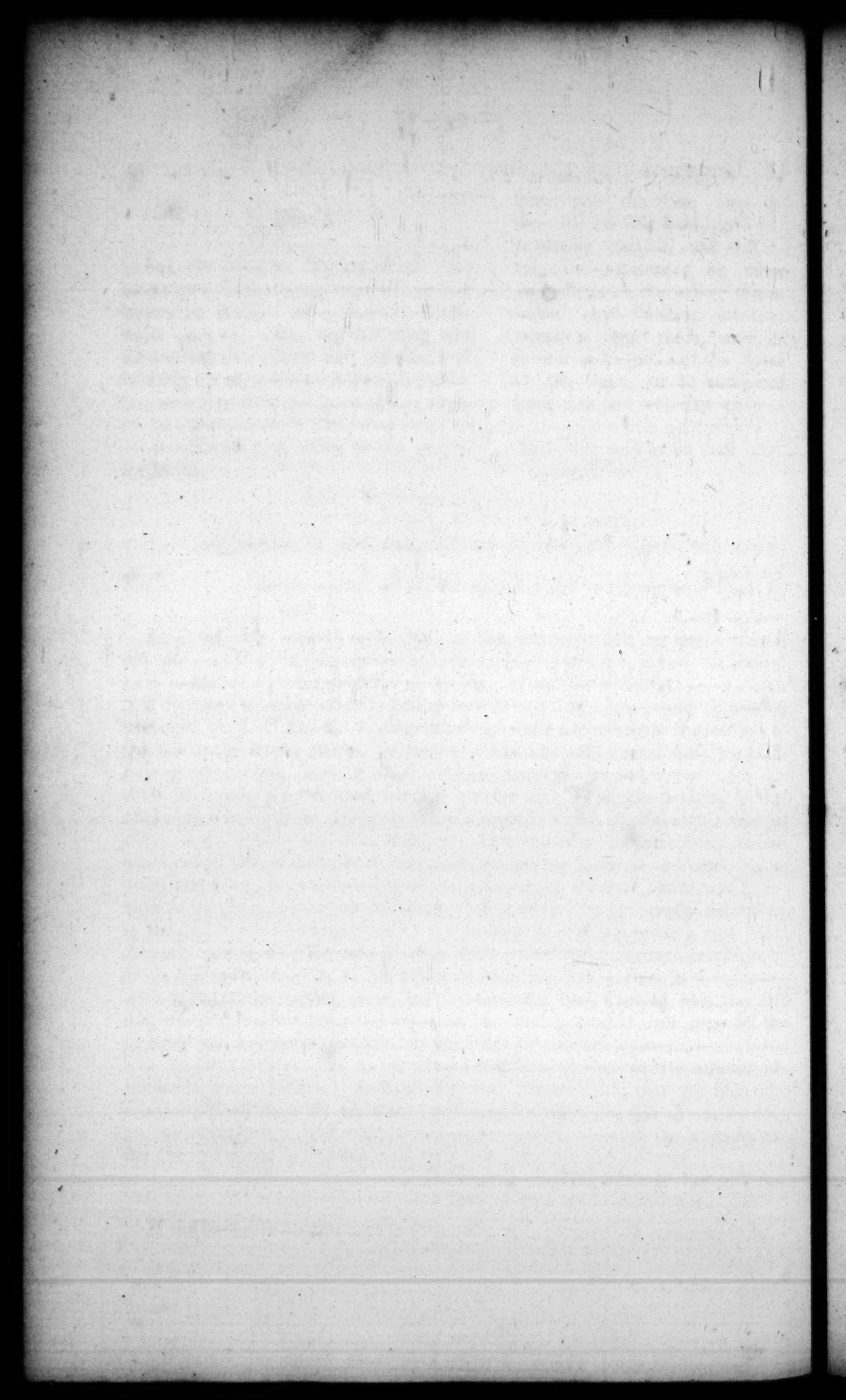
*R. R. of, &c.* maketh oath, that he this deponent did, on the ——  
day of —— serve Mr. —— and Mr. —— and on the —— day of ——  
Mr. —— and on the —— day of the same month ——  
and on the —— day of this instant —— Mr. —— with a petition  
preferred by *J. P.* and *C. D.* assignees of the estate and effects of the said *W. S.*  
the bankrupt, in this matter, to the right hon. the lord chanr. with his lord-  
ship's order thereon, bearing date the —— day of the said month of ——  
whereby it was ordered, that the time for the said *W. S.* the bankrupt's sur-  
rendering himself to the comrs. in the said comn. named, or the major part of  
them, and disclosing and discovering his estate and effects, and finishing his last  
examination before them, be further enlarged for the space of ten days, to be  
computed from the —— day of —— next, whereof notice was forth-  
with to be given, in manner following, that is to say, by personally delivering  
to the said —— respectively, a true copy of the said petition and order  
thereon, and at the same time shewing them respectively the said original pe-  
tition and order thereon, at the house of the said Mr. —— in ——  
with his agent or partner there, and at the same time shewing him the said  
original petition and order thereon, and by leaving another true copy of the  
said petition and order thereon, at the house of the said —— in ——  
with his servant there, and at the same time shewing him the said original pe-  
tition and order thereon. And this deponent further saith, that the said Mr. ——  
acts as clerk or secretary to the said comn. and that the said ——  
are the acting comrs. and that the said —— and —— are the assignees un-  
der the said comn. as this deponent hath been informed and believes.

*R. B.*

Sworn at the publick office in *Symond's Inn*,  
this —— day of —— before me ——

If the bankrupt obtains time to surrender, then prepare this memorandum.





*A Memorandum of the Time being enlarged for a Bankrupt to surrender.*

*At &c.*

*B E it remembered,* that at the day and place above mentioned, we whose names are hereunto subscribed, being the major part of the comrs. named in and by a comm. of bankrupt awarded against *W. S.* having met pursuant to the advertisement in the *London Gazette* for the credrs. to come in and prove their said debts, and for the bankrupt to finish his last examination, we were served with an order signed by the right honourable the ld. chanr. bearing date the \_\_\_\_\_ day of this instant \_\_\_\_\_ for the said bankrupt's time being enlarged for 49 days, to be computed from the said \_\_\_\_\_ day of this instant: Wherefore we do adjourn accordingly.

*G. W.*

*S. B.*

*C. H.*

*A Warrant of Protection for Bankrupt's Person.*

*Whereas a comm. of bankrupt on the \_\_\_\_\_ day of \_\_\_\_\_ one thousand seven hundred and \_\_\_\_\_ issued under the great seal of Great Britain, against *W. S.* of, &c. And whereas the major part of the comrs. in the said comm. named and authorized, have declared you to be a bankrupt; we the said comrs. do hereby summons and require you the said *W. S.* personally to be and appear before the comrs. in the said comm. named, or the major part of them, on the (a) \_\_\_\_\_ day of \_\_\_\_\_ instant, at ten in the morning, and on the \_\_\_\_\_ and \_\_\_\_\_ days of \_\_\_\_\_ next, at four o'clock in the afternoon, at *Guildhall, London*, then and there to be examined, and to make a full and true discovery and disclosure of all your estate and effects, according to the directions of the acts of parliament now in force concerning bankrupts, and particularly the act passed in the fifth year of the reign of his late majesty king *George II.* intituled, "An act to prevent the committing of frauds by bankrupts;" and herein fail not, at your peril. Given under our hands this \_\_\_\_\_ day of \_\_\_\_\_*

*17*

To *J. R.*  
the bankrupt.

*G. W.*

*S. B.*

*C. H.*

As soon as the bankrupt receives the above warrant of protection, it is prudent for him to surrender himself, for two reasons: One to shew his willingness to comply with the comm. the other, to secure his person from arrest and imprisonment, till the time of his last examination, whether within the forty-two days, or the further time allowed him by the act of parliament for finishing his examination, being (b) forty-nine days.

*Warrant to the Warden of the Fleet Prison, to bring before the Comrs. at Guildhall, a Bankrupt, who is upon mesne Proses and not in Execution, to be examined before them.*

*Whereas a comm. of bankruptcy hath been awarded against *W. S.* of, &c. directed to us whose names are subscribed, and to the other comrs. therein*

(a) The days appointed by the comrs. in the *Gazette*.

(b) The act says 50 days, but the ld. chanc's. order is for 49 days, because the 50th day may happen to fall on a *Sunday*.

named, and he being declared a bankrupt, and the \_\_\_\_\_ day of \_\_\_\_\_ instant, being one of the days appointed in the *London Gazette*, for the said W. S. to surrender himself to the said comrs. and we being informed that the said W. S. is in your custody upon mesne process, and not in execution: These are therefore to desire you to bring the body of the said W. S. before us at *Guildhall*, in the city of *London*, in \_\_\_\_\_ next, being the \_\_\_\_\_ day of \_\_\_\_\_ instant, at four of the clock in the afternoon, in order to be examined by us, pursuant to the act or acts of parliament now in force concerning bankrupts; and this shall be your warrant. Given under our hands this day of \_\_\_\_\_ 17\_\_\_\_\_

*To the warden of the Fleet  
prison, or his deputy.*

G. W.  
S. B.  
C. H.

*The same to the marshal of  
the King's Bench, the  
Sheriffs of London, &c.*

### Nº 23. Certificate of Conformity.

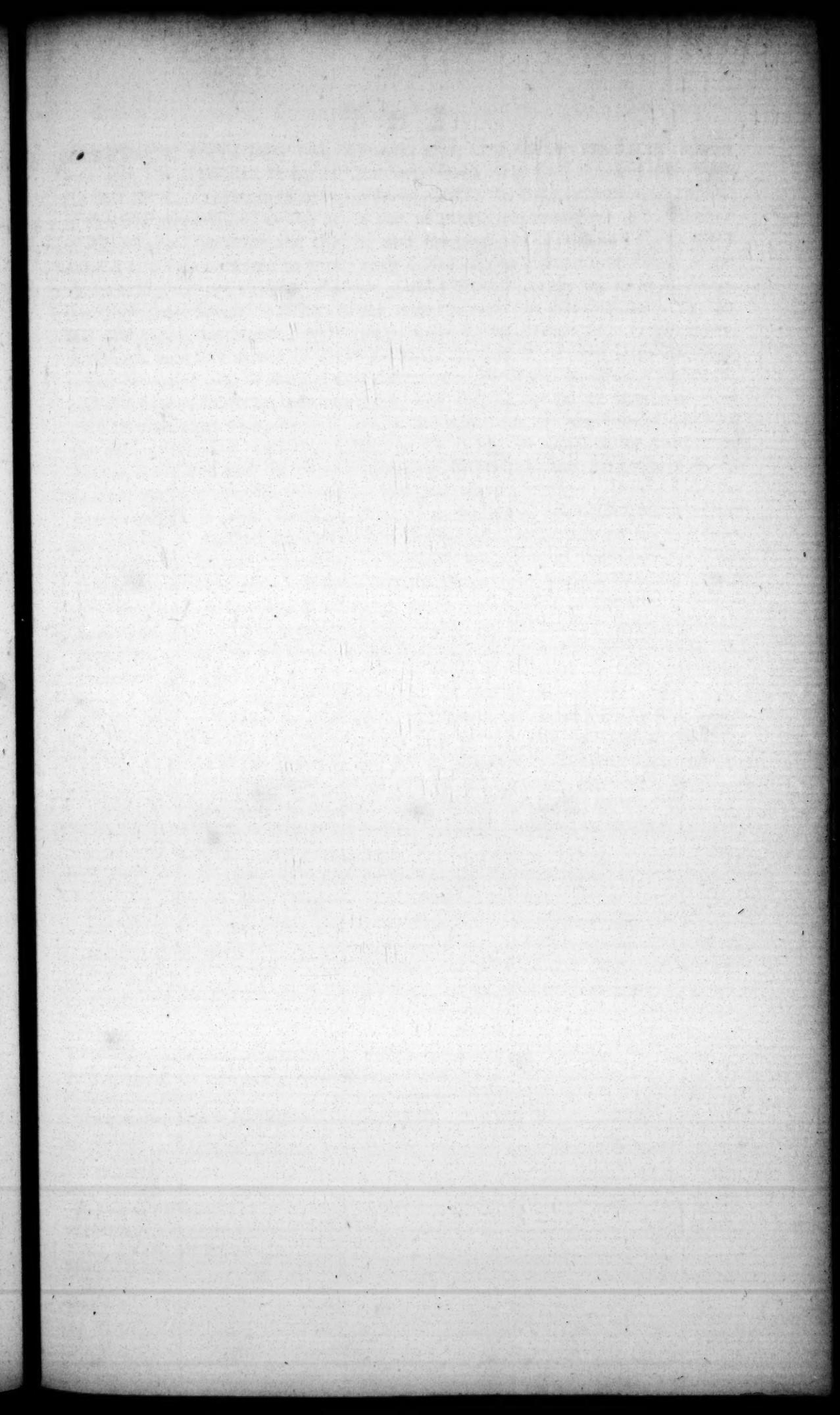
*The Commissioners (a) Certificate to the Great Seal, that the Bankrupt hath conformed, in order to his being discharged from his Debts.*

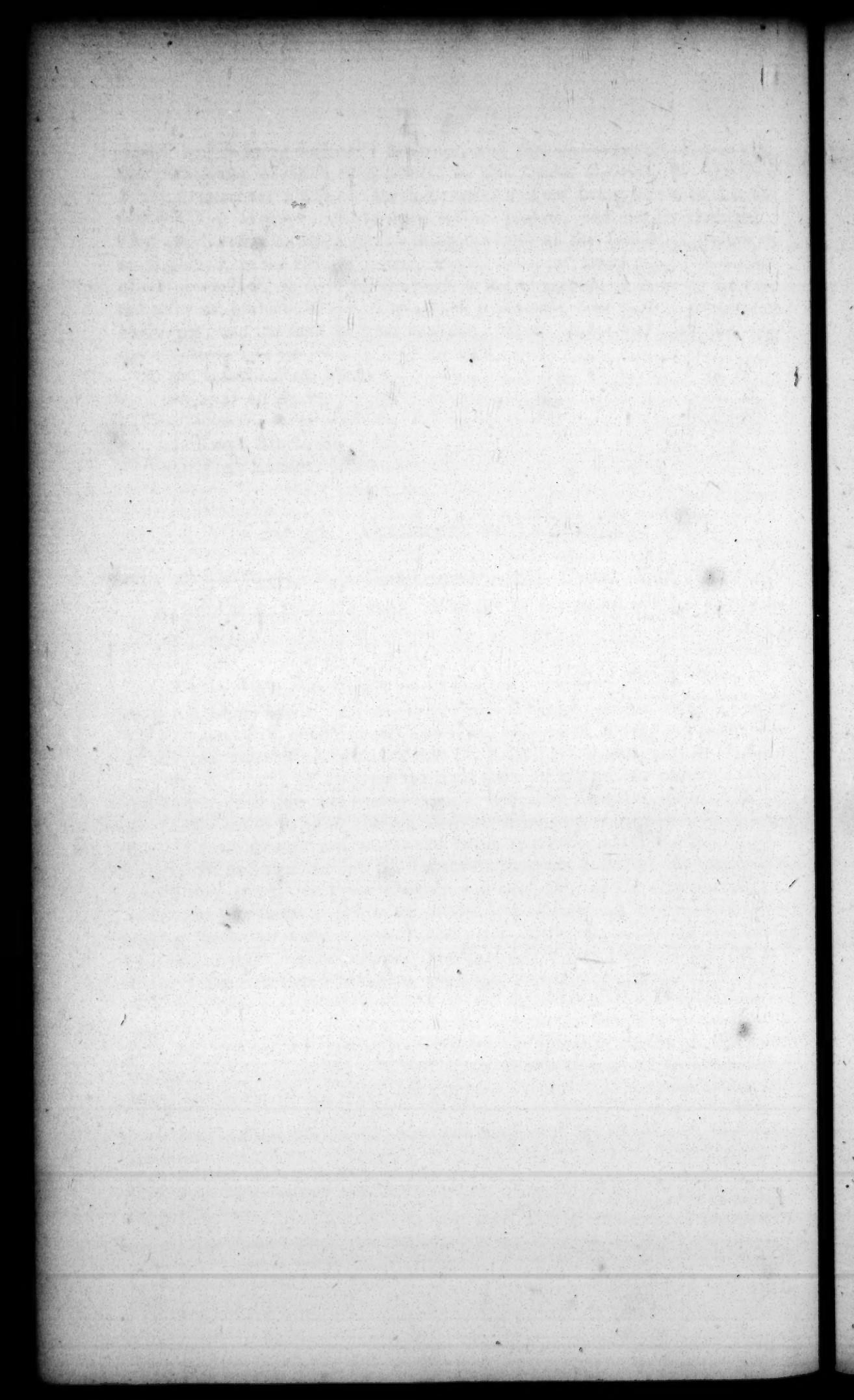
*To the Right Honourable the Lord High Chancellor of Great Britain.*

WE whose hands and seals are hereunto subscribed and set, being the major part of the commissioners named and authorized in and by a commission of bankrupt awarded and issued against W. S. of, &c. bearing date at *Westminster*, the \_\_\_\_\_ day of *April*, in the 14th year of his present majesty's reign, directed to (here name the commissioners, as their names stand in the commission); Do humbly certify to your lordship, that the major part of the commissioners by the said commission authorized, having began to put the said commission in execution, did find that the said W. S. became bankrupt since (b) the fourteenth day of *May 1729*, and before the date and suing forth of the said commission, within the true intent and meaning of the statutes made and now in force concerning Bankrupts, some or one of them; and did thereupon declare him bankrupt accordingly. And we further humbly certify to your lordship, that the said W. S. being so declared bankrupt, the major part of the commissioners by the said commission authorized, pursuant to the direction of the act of parliament made in the fifth year of the reign of his late majesty King *George the second*, intituled, "An act to prevent the committing of frauds by bankrupts, did cause due notice to be given and published in the *London Gazette* of such commission being issued, and of the times and places of three several meetings of the said

(a) This is usually called, "The bankrupt's certificate;" but we apprehend, erroneously, and therefore we presume to recommend the title we have given it above, from *Green's Spirit of the Bankrupt Laws*, which see, fol. 424. in notes of 2d edit.

(b) Stat. 5 Geo. 2. c. 30. s. 1. extends only to such as became bankrupts after the 14th day of *May 1729*, who are understood to be those against whom no commission of bankrupt was sued out before that time; and if the certificate of the commissioners does not mention the party to have become bankrupt after that time, it ought to be disallowed for that cause; but it is however thought fit and agreed, that before the certificate be disallowed, some proof be made by the creditors of the party's being bankrupt before that time. See *Green*, 428.





commissioners, within forty-two days next after such notice, the last of which meetings was appointed to be on the forty-second day (*c*), at which meetings the said *W. S.* was required to surrender himself to the said commissioners named in the said commission, or the major part of them, and to make a full disclosure or discovery of his estate and effects; and the creditors of the said *W. S.* were desired to come prepared to prove their debts, and to assent to or dissent from the making this certificate. *And we further humbly certify* to your lordship, that such three several meetings of the major part of the commissioners by the said commission authorized, were had pursuant to such notice (*d*) so given and published, and that at one of those meetings the said *W. S.* did surrender himself to the major part of the said commissioners by the said commission authorized, and did sign or subscribe such surrender, and did submit to be examined from time to time upon oath, by and before the major part of the commissioners by the said commission authorized, and in all things to conform to the several statutes made and now in force concerning bankrupts, and particularly to the said act made in the fifth year of his said late majesty's reign. *And we further humbly certify* to your lordship, that (*e*) at the last of the said three meetings the said *W. S.* finished his examination before the major part of the said commissioners by the said commission authorized, according to the direction of the said last-mentioned act; and upon such his examination made a full discovery of his estate and effects, and in all things conformed himself to the several statutes made and now in force concerning bankrupts, and particularly according to the directions of the said act made in the fifth year of his late majesty's reign, and there doth not appear to us any reason to doubt of the truth of such discovery, or that the same is not a full discovery of all the estate and effects of the said *W. S.* *And we further humbly certify*, that the creditors whose names or marks are subscribed to this certificate are full four parts in five, in number and value, of the creditors of the above named *W. S.* who are creditors for not less than twenty pounds respectively, and who have duly proved their debts under the said commission; and that it doth appear to us by due proof, by affidavit (*f*) in writing, that such several subscribing creditors, or some person by them respectively duly authorized thereunto, did before our signing hereof sign this certificate, and testify their consent to our signing the same, and to the said *W. S.* his having such allowance and benefit as by the said last-mentioned act are allowed to bankrupts, and to the said *W. S.* his discharge in pursuance of the last-mentioned act. *In witness* whereof we have hereunto set our hands and seals, this      day of April, in the 14th year of the reign of our sovereign lord George the third, by the grace of God of Great Britain, France and

(*c*) If the bankrupt hath procured his time to be enlarged, you must add, after the words forty-second day, and in a parenthesis, what follows; viz. (but by your lordship's order, bearing date the 26th day of      last); or, if more orders than one, (by your lordship's two several orders, bearing date respectively the      day of      and the      day of      now last past, the time for the said bankrupt's finishing his last examination was enlarged for 49 days).

(*d*) And the order or orders of your lordship, as bankrupt's time may happen to have been enlarged.

(*e*) On the      day of      (being the 49th day of the enlarged time under your lordship's order or orders, as aforesaid), to be inserted here, instead of "at the last of the said three meetings, in case of an enlargement of time.

(*f*) Or affirmation, as the case happens.

Ireland, King, Defender of the Faith, &c. and in the year of our Lord 1774.

Thomas Nugent (L. S.)  
Richard Wood (L. S.)  
Thomas Life (L. S.)

We the creditors of the abovenamed W. S. whose names or marks are hereunto subscribed, do hereby testify and declare our consent that the major part of the said commissioners by the abovementioned commission authorized, may sign and seal the certificate above written; and that the said W. S. may have such allowance and benefit as are given by the act of parliament last abovementioned; and to the said W. S. his discharge, in pursuance of the same act.

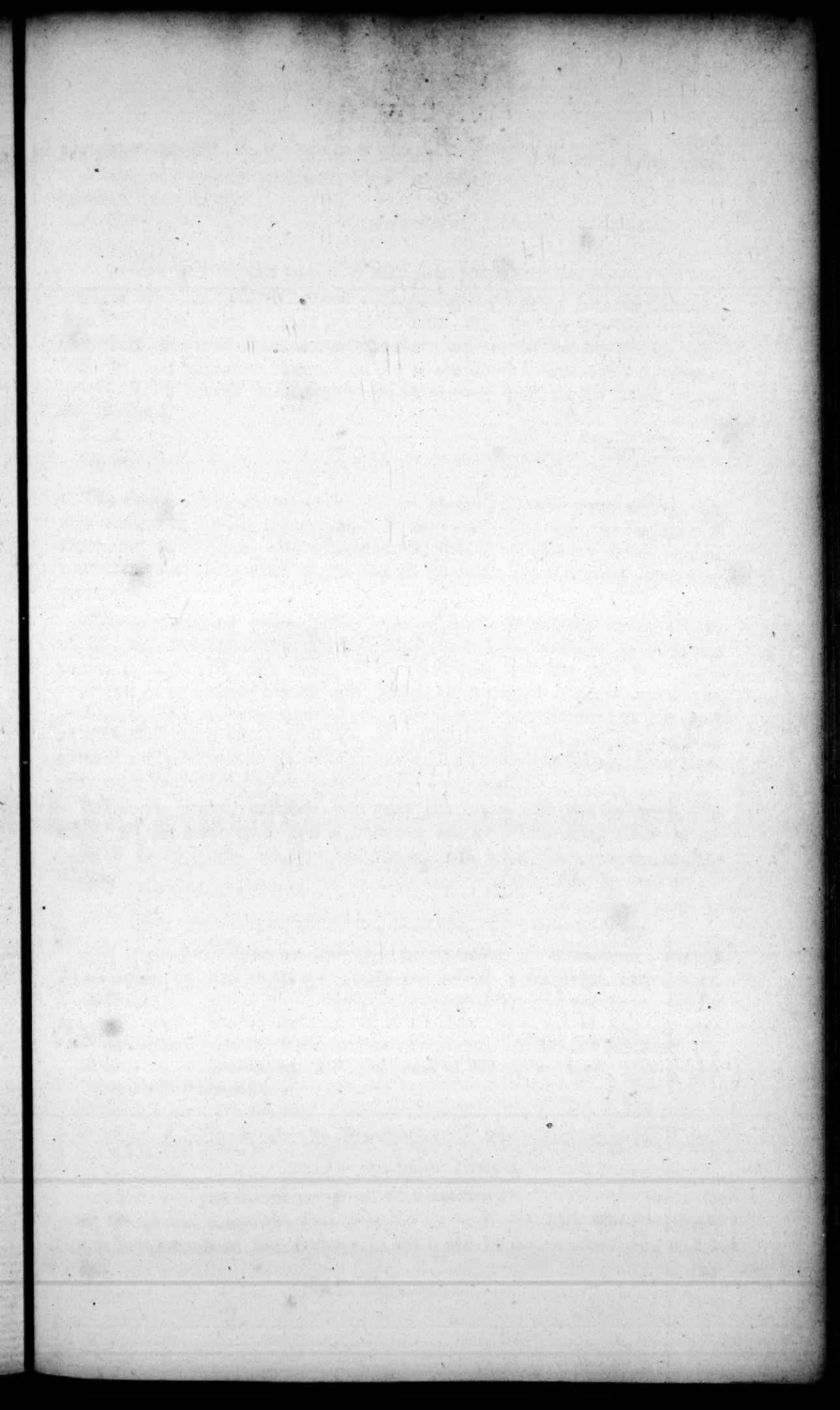
John Partridge.  
Charles Dennis.  
John Leigh.  
Mary Combes.  
Abraham Bentley.  
George Adams, for self and co.  
Thomas Folkes, for Edward Smith,  
by letter of attorney.

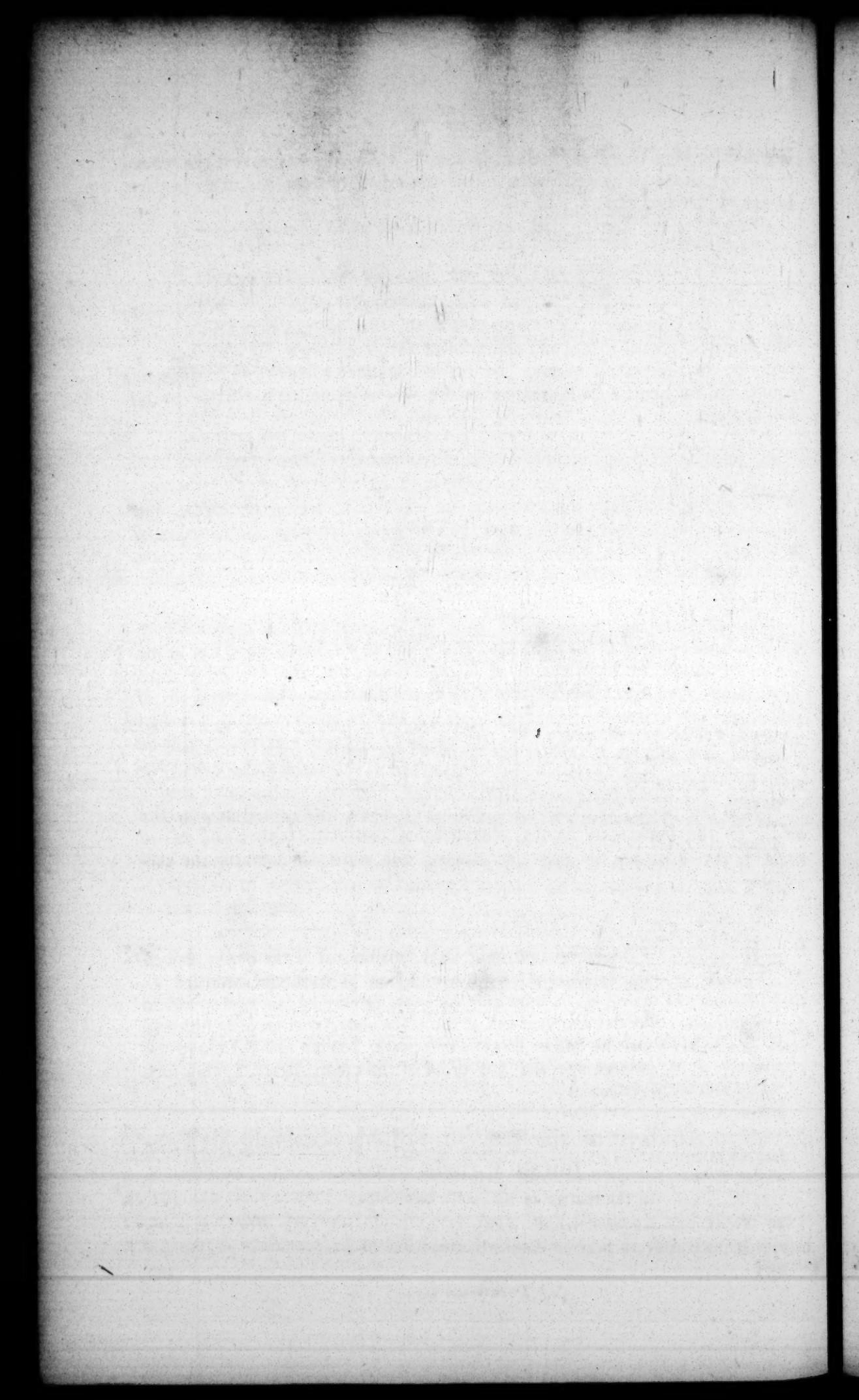
**N. B.** It was usual, in case a memorandum came down to the commissioners sitting at Guildhall from the bankrupt office, that a petition was lodged for the enlargement of the bankrupt's time, to accept such notification in lieu of an order; but lord chancellor hath been pleased to direct, that no such petition shall be received, unless the same be presented so as to be answered six days before the day the bankrupt is required to finish his examination, exclusive of the day whereon the same is answered. It is the opinion of many, that a bankrupt cannot be capitally convicted if his time is enlarged.

**Nº 24. Affidavit of seeing the Credrs. of the Bankrupt sign his Certificate, to be produced to the Comrs.**

*In Chancery. In the matter of W. S. a Bankrupt.*

P. Q. of \_\_\_\_\_ maketh oath, that he this deponent did see A. B. C. D. E. F. G. H. &c. severally subscribe their respective names to a consent, at the foot of a certain instrument in writing, intended to be a certificate under the hands and seals of the major part of the comrs. named and authorized in and by a comn. of bankrupt awarded and issued out against W. S. \_\_\_\_\_ that he the said W. S. hath in all things conformed himself to the several statutes made and now in force concerning bankrupts, whereby they do severally testify and declare their consent to the said comrs. signing and sealing the said certificate, and that the said W. S. may have such allowance and benefit as are given to bankrupts by an act made in the fifth year of the reign of his late





late majesty king George the second, intituled, " An act to prevent the committing of frauds by bankrupts," and be discharged from his debts in pursuance of the said act.

P. Q.

*Sworn at the public office.*

*The like where two Persons saw the Creditors sign.*

T. A. of \_\_\_\_\_ and O. N. of \_\_\_\_\_ severally make oath as follows : And first this deponent T. A. for himself saith, that he this deponent did see (the names, places of abode, and additions of such creditors as signed) severally subscribe their respective names, &c. (as in the above affidavit) and this deponent O. N. for himself saith, that he did see \_\_\_\_\_ subscribe his name to the said consent.

T. A.

*Sworn, &c.*

O. N.

The above certificate, together with the affidavit of seeing the credrs. sign their consent at the foot thereof, must be afterwards left with the secretary of bankrupts, at his office, who will thereupon giye the messenger to the comn. a certificate for the printer of the *Gazette* to insert the following advertisement, *viz.*

Whereas the acting comrs. in the com. of bankrupt awarded against W. S. of, &c. have certifid to the right hon. Henry lord *Apfley*, baron of *Apfley*, in the county of *Suffex*, ld. high chanr. of Great Britain, that the said W. S. hath in all things conformed himself according to the directions of the several acts of parliament made concerning bankrupts ; this is to give notice, that by virtue of an act passed in the fifth year of his late majesty's reign, his certificate will be allowed and confirmed as the said act directs, unless cause be shewn to the contrary on or before the (a) \_\_\_\_\_ day of \_\_\_\_\_ next.

Within the twenty-one days you must also leave with the secretary, the affidt. of the bankrupt's having obtained his certificate fairly ; and if no cause is shewn within the time, ld. chanr. will allow and confirm the certificate.

Nº 25. At *Guildhall, London, &c.*

*Memorandum of commissioners signing the bankrupt's certificate.* Memorandum, that we the major part of the comrs. named and authorized in the commission of bankrupt awarded against W. S. who have hereunto subscribed our names, did on the day and year and at the place above written duly sign and seal the said bankrupt's certificate, having first examined the proceedings and the proof of the credrs. debts, signing such certificate.

Nº 26. Affidavit of the Bankrupt of his obtaining his Certificate without Fraud.

In the matter of W. S. a bankrupt.

W. S. of \_\_\_\_\_ against whom a comn. of bankrupt hath issued, maketh oath, that the certificate bearing date the \_\_\_\_\_ day of \_\_\_\_\_ 1774, under the

(a) Twenty-one days.

the hands and seals of G. W. esq; S. B. and C. H. gent. whereby they have certified to the right hon. Henry lord Apsley, lord high chancellor of Great Britain, that he this deponent hath in all things conformed himself according to the directions of an act of parliament made and passed in the fifth year of the reign of his late majesty king George the second, intituled, "An act to prevent the committing of frauds by bankrupts," and the consent of all this deponent's credrs. who have set their names or marks at the foot of the said certificate, that the said comrs. may sign and seal the same, and that this dept. may have such allowance and benefit as are given to bankrupts by the said act, and be discharged in pursuance thereof, was obtained fairly and without fraud.

W. S.

*Sworn at a public office, &c.*

### *Allowance of the Certificate.*

Day of

1774.

Whereas the usual notice hath been given in the *London Gazette* of \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ last, and none of the credrs. of the above named W. S. have shewn any cause to the contrary; I do allow and confirm this certificate.

Apsley, C. S.

N<sup>o</sup> 27. At Guildhall, London, —— 1774.

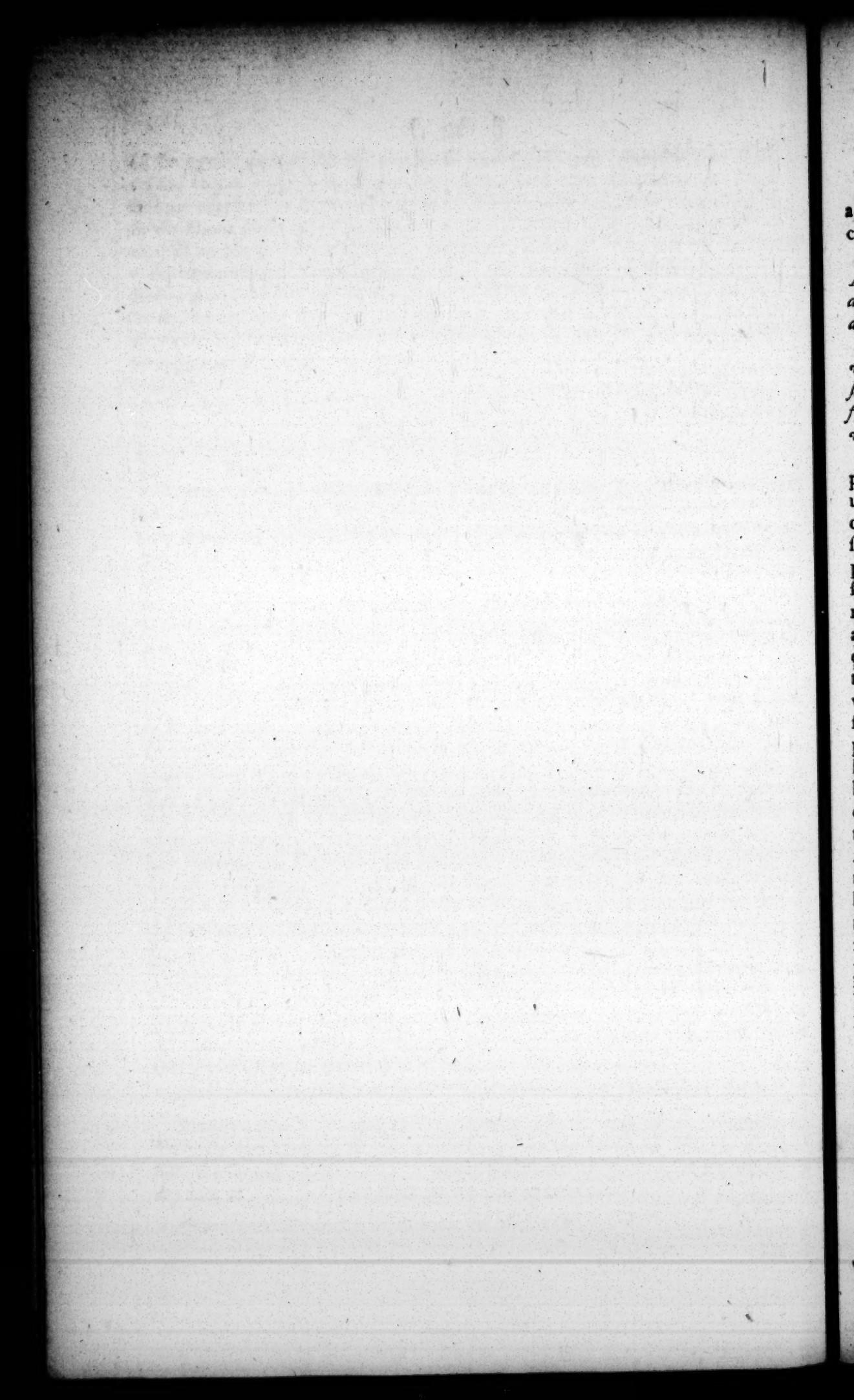
Memorandum, this being the day appointed in the *London Gazette* for making a dividend of the estate and effects of W. S. vidend. the person against whom a comm. of bankrupt hath been awarded issued, it appeared to us the major part of the comrs. named and authorized in and by the said comm. that the debts proved under the said comm. do amount in the whole to the sum of one thousand two hundred and fifty three pounds fourteen shillings and one penny; and it appearing to us by the account of J. P. merchant, and C. D. wine cooper, the assignees under the said comm. this day exhibited to us upon oath, that the sum total of the said bankrupt's estate, now remaining in their hands to be divided, doth amount to the sum of four hundred and sixty-three pounds twelve shillings and four pence: Now we do order and direct, that out of the monies remaining in the hands of the assignees as aforesaid, a dividend of six shillings in the pound be paid to such of the bankrupt's credrs. as have already proved their debts and sought relief under the said comm. in proportion to their several debts, which said dividend of six shillings in the pound, amounts to three hundred seventy-six pounds and two shillings, as we compute the same, and after payment thereof, there will remain in the hands of the said assignees the sum of eighty seven pounds ten shillings and four pence, which they are to retain towards answering future charges and making a further dividend.

*If the solr. pays the dividends, he usually takes receipts for the same thus :*

Received this      day of      of Mr. J. P. and C. D. assignees of the estate and effects of W. S. a bankrupt, by the hands of Mr. R. B. their solr. the sum of      being a dividend of      in the pound on my debt of      proved under the said commission.

A. B.

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ir  
on



## N° 28. At Guildhall, London, —— 1774.

Memorandum, this being the day appointed in the *London Gazette*, for making a further dividend of the estate and effects of *W. S.* the person against whom a comn. of bankrupt hath been awarded and issued; it appeared to us the major part

*An order for  
a final divi-  
dend;* of the comrs. named and authorized in and by the said comn. that by an order of distribution made the —— day of —— last, the debts then proved under the said comn. amounted in the whole

to the sum of one thousand two hundred and fifty-three pounds fourteen shillings and one penny, and that the sum total of the said bankrupt's estate then remaining in the hands of *J. P.* merchant, and Mr. *C. D.* the assignees under the said comn. did amount to the sum of four hundred sixty three pounds twelve shillings and four pence; it was thereby ordered and directed, that a dividend of six shillings in the pound should be

paid to such of the bankrupt's credts. as had proved their debts and sought relief under the said comn. in proportion to their several debts, which said dividend of six shillings in the pound did amount to the sum of three hundred seventy-six pounds two shillings, as the said comrs. did compute the same, and after payment thereof, there would remain in the hands of the said assignees the sum of eighty seven pounds ten shillings and four pence, which they were to retain towards answering future charges and making a further dividend. And it appearing to us by the account of the said assignees this day exhibited to us upon oath, that the sum total of the said bankrupt's estate since got in and received by them, doth amount to the sum of eight pounds fifteen shillings and three pence, which being added to the said sum of eighty-seven pounds ten shillings and four pence, make together the sum of ninety-six pounds five shillings and seven pence; and it also appearing to us by the account of the said assignees, and also by a certificate of *Edmund S.* esq; one of the masters of the court of chancery, bearing date the third day of —— 1774, of his having settled and taxed a bill of fees and disbursements of Mr. *R. B.* clerk to the said comn. at the sum of twelve pounds eighteen shillings and eight pence, and by another certificate of *F. E.* esq; another of the masters of the said court of chancery, bearing date the —— day of —— 1774 —— of his having settled and taxed another bill of fees and disbursements of the said *R. B.* under the said comn. including the costs of several actions at law, at the sum of thirty three pounds twelve shillings and ten pence, that they the said assignees have paid, laid out and expended the sum of fifty-five pounds twelve shillings and three pence, which being deducted from the said sum of ninety-six pounds five shillings and seven pence, reduces the same to the sum of forty pounds thirteen shillings and four pence, which said sum now remains in the hands of the said assignees to be divided.

*If no debts re-* And it appearing to us, that the debts proved under the said comr. *main to be pro-* including the debts that have been this day proved to the amount *ved at this sit-* of forty-five pounds six shillings and five pence, do make together *ting then what* the sum of one thousand two hundred and ninety nine pounds and *is in italicks* six pence: Now we do order and direct that a dividend of six *may be omitted.* shillings in the pound shall be paid to such of the said creditors, who have this day proved their debts, which will come to thir-

teen pounds twelve shillings and nine pence, and after the pay-  
ment thereof there will remain in the hands of the said assignees the sum of twenty-  
seven pounds one shilling and four pence. And we do order and direct, that out

of the monies so remaining in the hands of the said assignees as aforesaid a dividend of five pence in the pound be paid to all the bankrupt's credit. who have already proved their debts and sought relief under the said comm. in proportion to their several debts, which said dividend of five pence in the pound amounts to the sum of twenty-seven pounds one shilling and three pence, as we compute the same, and after the payment thereof there will remain in the hands of the said assignees the sum of one penny and no more.

*But if any thing considerable is left in hand, or debts remain to be got in, so that this is intended only as another further dividend, then conclude it as the former order or distribution, viz. which they are to retain towards answering future charges and making a further dividend.*

In case the assignees neglect to make a dividend within twelve months after issuing of the comm. (the time limited by act of parliament) they may be summoned by the comrs. which summons usually runs thus, *viz.*

### *Notice from Commissioners to Assignees to make a Dividend.*

You are hereby required to attend us, the major part of the comrs. in a comm. of bankruptcy against W. S. on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ at the Guildhall in the city of London, to shew cause why notice has not been given by you for making a dividend of the estate and effects of the said bankrupt, according to the act of parliament in that case made and provided, which if you fail of doing, a meeting will be forthwith appointed by us, for you to produce your receipts and payments touching the same, and to make a dividend and distribution of such part as shall appear to be remaining in your hands.

*To J. P. and C. D. assignees of the estate  
and effects of W. S. a bankrupt.*

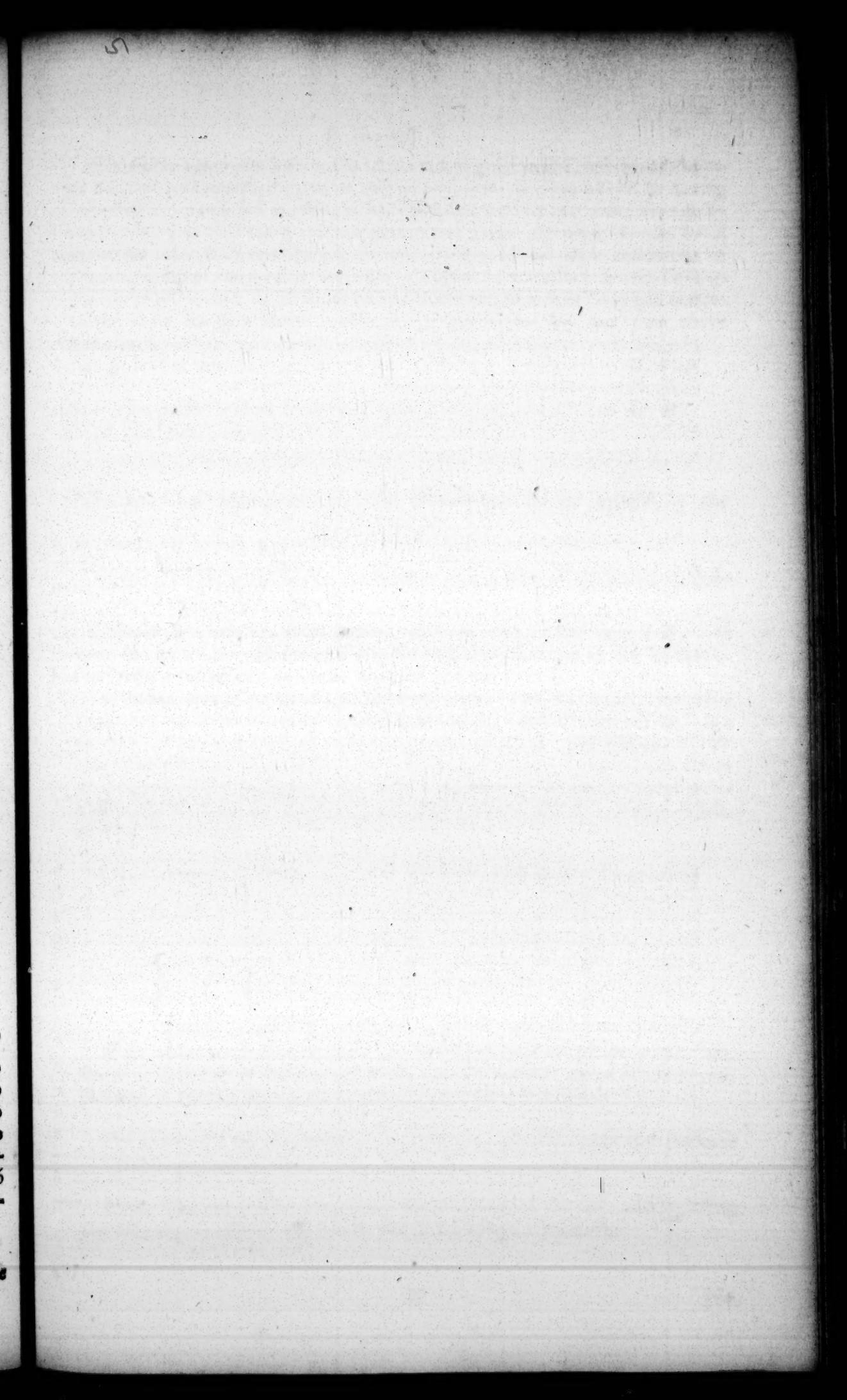
### *Nº 29. Bill of Costs of the petitioning Creditor against W. S. a Bankrupt.*

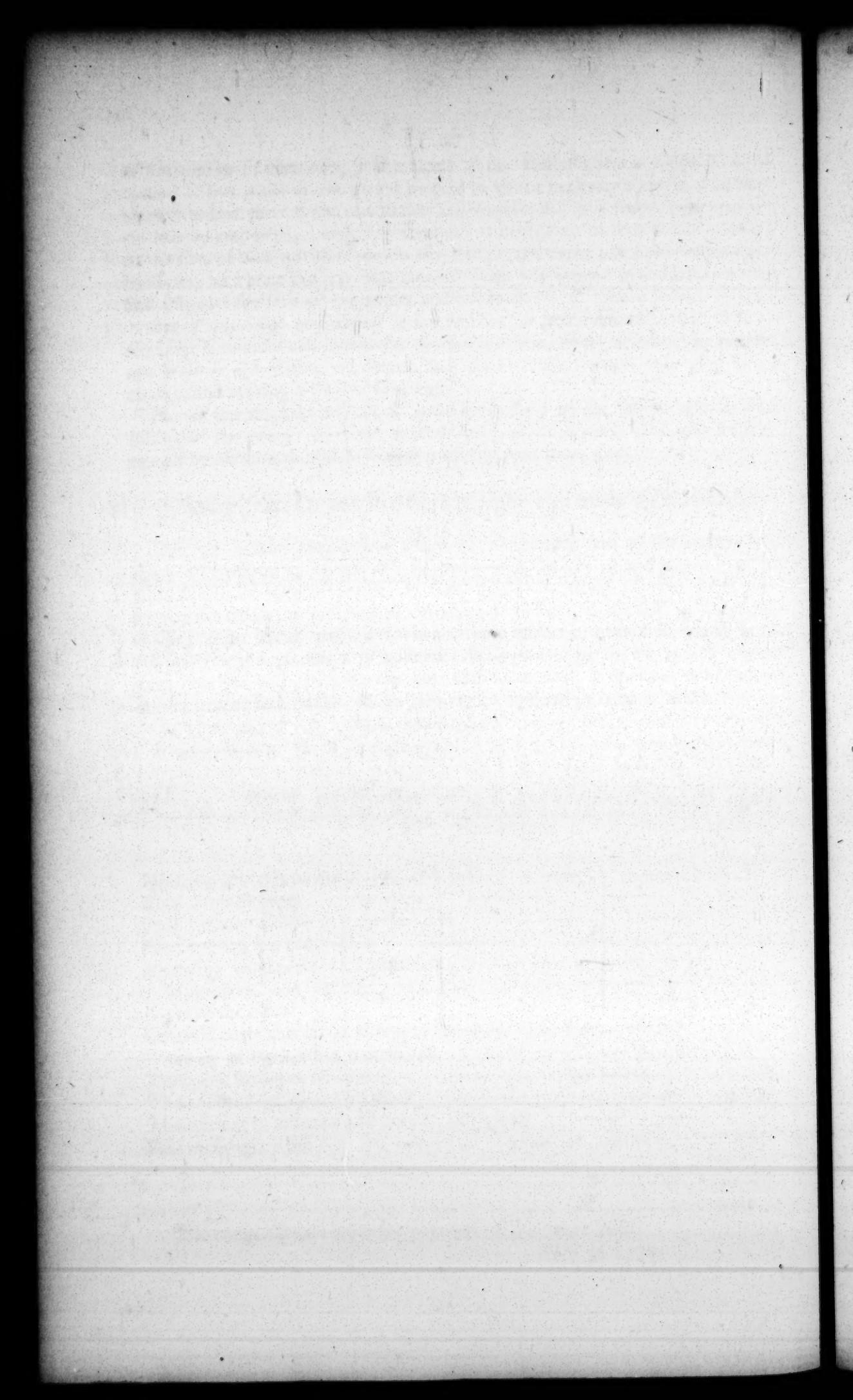
	l. s. d.
Drawing affidavit of debt, duty and oath	— — — 0 5 6
Bond to lord keeper	— — — 0 6 6
Paid for commission at a private seal	— — — 9 0 2
Fee for suing out commission	— — — 1 1 0
Attending to consult with petitioning creditor how to prove the bankruptcy, and attending with him to find proper persons to prove the same	{ 0 13 4
Commissioners and clerks fitting at the Rolls coffee-house, when the act of bankruptcy was found	4 0 0
Their first fitting at Guildhall	4 0 0
Their second fitting at Guildhall	4 0 0
Their fitting to examine and execute assignment	4 0 0
Paid messenger's bill	10 10 0
	<hr/>
	37 16 6

*37.16.6*  
The commissioners order for payment of the above bill.

April 3d 1774.

We





We whose names are hereunto subscribed, being the major part of the comrs. named and authorized in a comn. of bankrupt awarded against W. S. having inspected the above bill of charges and disbursements, do tax and ascertain the same at the sum of thirty seven pounds sixteen shillings. and we do hereby direct and order Mr. J. P. and Mr. C. D. the assignees of the estate and effects of the said bankrupt, to pay the said sum of thirty-seven pounds sixteen shillings out of the first money or effects of the said bankrupt, that shall be got in and received under the said comn. Witness our hands the day and year above mentioned.

G.W.

S. B.

C. H.

N° 30. A discharge for the Dividends to be signed by the several Creditors.

*Ingross the order of distribution verbatim on a large piece of parchment, or make a full recital of the same, viz.*

Whereas at a meeting of the comrs. under the comm. issued against W. S. of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ last, for making a dividend of the said bankrupt's estate and effects, it was ordered, &c. then,

We whose names are hereunto subscribed, creditrs. who have proved our debts under the comm. issued against the above named *W. S.* Do hereby acknowledge to have had and received of and from *J. P.* and *C. D.* the assignees of the estate and effects of the said *W. S.* our several and respective proportions, shares or dividend of six shillings in the pound, pursuant to the above recited order of distribution made by the said comrs the \_\_\_\_\_ day of \_\_\_\_\_ last, as witness our hands.

Creditors names.	Debts as proved.	Dividends thereof.	Received by

If for a further or final dividend, say our several and respective proportions, shares or dividends of six shillings in the pound, and five pence in the pound, pursuant to the two several above recited orders of distribution.

The dividends being thus computed, will save the assignees a great deal of trouble in the payment of them.

*N. B.* The expence of computing the dividends by the solr. and ingrossing the discharge as above, will be allowed in the assignees accounts.

N<sup>o</sup>. 31. A Petition to supersede a Commission of  
Bankruptcy.

*In the matter of W. S. a bankrupt.* To the right honourable Henry lord *Apsley*, lord high chancellor of Great Britain.

The humble petition of *W. S.* a bankrupt.

*Sherweth,*

**T**HAT a comm. of bankrupt issued against your petitioner, bearing date the \_\_\_\_\_ day of \_\_\_\_\_ last, directed to \_\_\_\_\_

That the major part of the said comrs, in and by the said comm. named and authorized, proceeded upon the said comm. and declared your petitioner a bankrupt, and executed to *J. P.* and *C. D.* an assignment of your petitioner's estate and effects, and your petitioner has finished his last examination before the said comrs.

That the several persons whose names are hereunto subscribed, are all the credrs. of your petitioner who have proved or claimed any debt under the said comm. and your petitioner having come to an agreement with them, and they having consented that the said comm. should be superseded;

*Your petitioner therefore humbly prays your lordship, that the said comm. may be immediately superseded, and that a writ of supersedeas may issue for that purpose.*

W. S.

We whose names are hereunder written do hereby consent to the prayer of the above petition.

*A. B.*

*C. D.*

*E. F.*

*G. H.*

*&c.*

**N. B.** A commission may be superseded for many other causes.

Petition to make an Election.

*In the matter of W. S. a bankrupt.* To the right honourable the lord high chancellor of Great Britain.

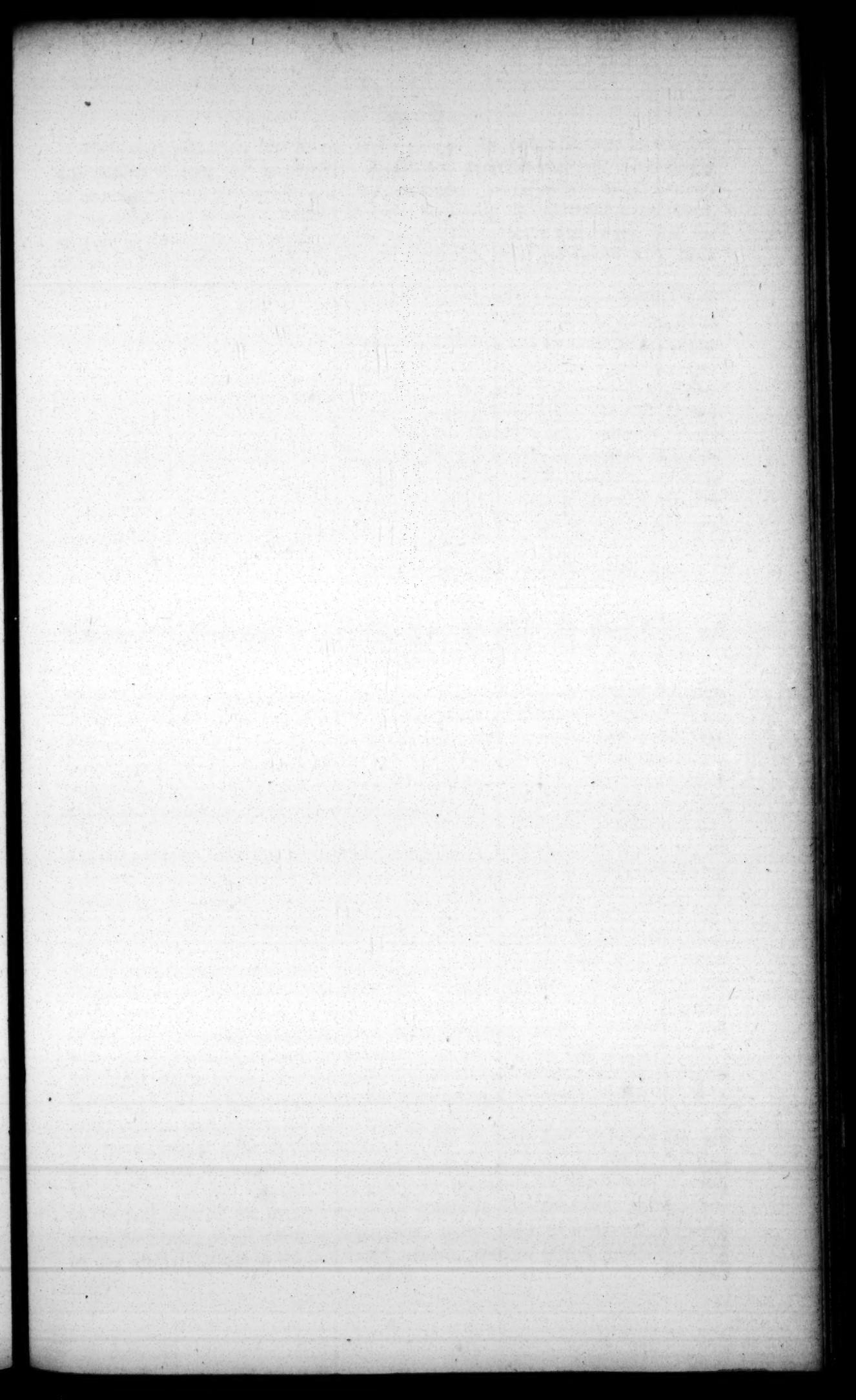
The humble petition of the said bankrupt,

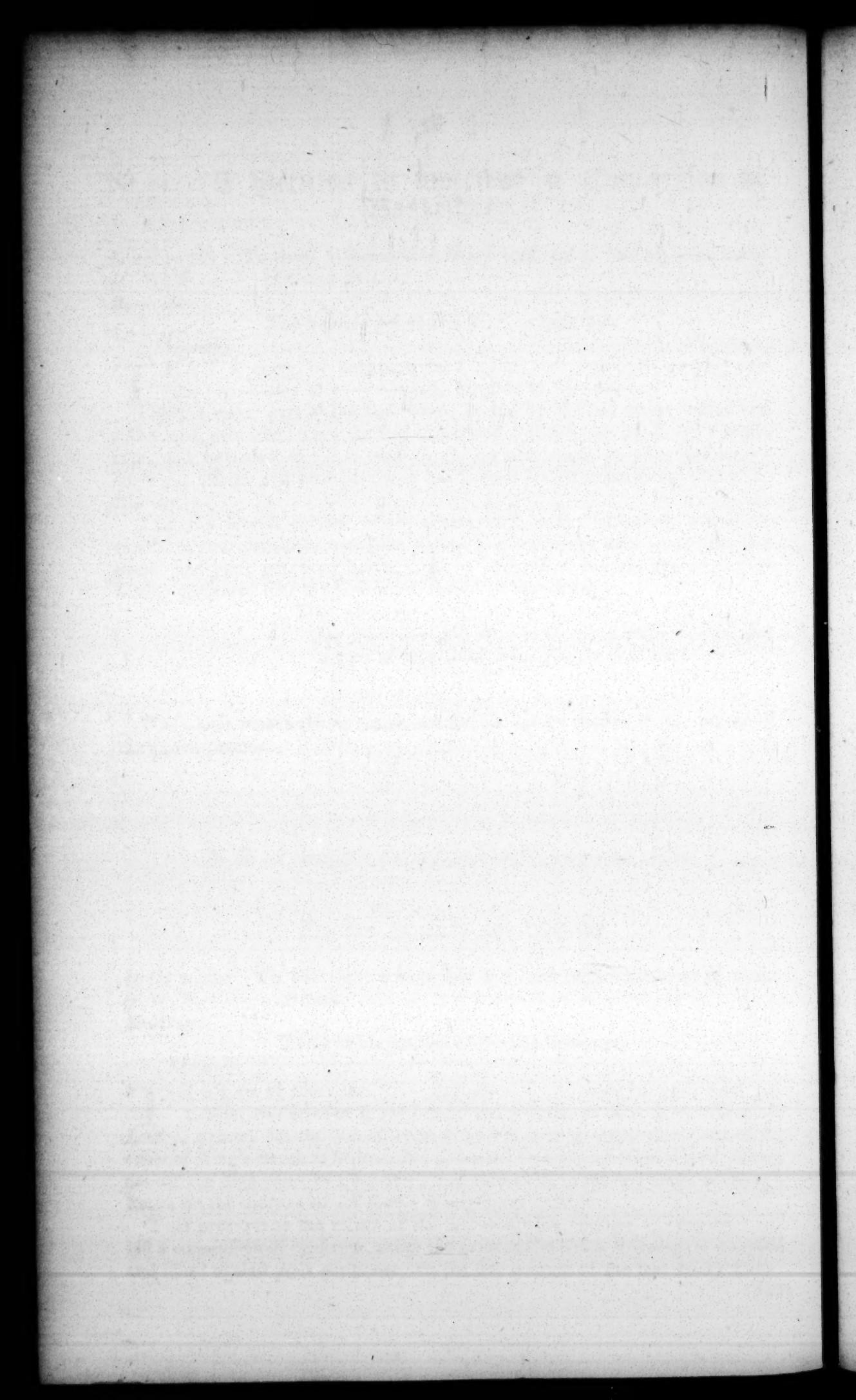
*Sherweth,*

**T**HAT on or about the day of now last past, your petitioner was arrested at the suit of *Henry Rock*, of King Steet, Cheapside, London, grocer, for the sum of 1000*l.* by virtue of a *capias* issuing out of the court of King's Bench at Westminster, grounded on a special original *writ*, issuing out of the high court of Chancery, and returnable in the said court of King's Bench on the morrow of All Souls; wheresoever, &c.

That previous to the return of the said *writ*, viz. on the day of last a commission of bankrupt, under the great seal of Great Britain, was awarded and issued against your petitioner, on the sole petition of the said *Henry Rock*.

That





That your petitioner was by the major part of the commissioners in the said commission named and authorized, found and declared bankrupt accordingly as appears to your petitioner by a summons under the respective hand-writings of the major part of the said commissioners, requiring the personal appearance, of your petitioner at *Guildhall, London*, on the several days and hours, and for the purposes therein especially mentioned, whereof your petitioner hath been personally served with a copy.

Your petitioner therefore most humbly prays your lordship will be pleased to order the said Henry Roch forthwith to make his election; and that in case he elects to proceed at law, that the said commission awarded against your petitioner as aforesaid, be immediately superseded, and that a writ of supersedeas do forthwith issue for that purpose at the expence of the said Henry Roch; and that in case the said Henry Roch should elect to prosecute the said commission, that your lordship will be pleased to order the said action to be superseded, and your petitioner forthwith discharged out of custody, at the suit of the said Henry Roch, and at his expence.

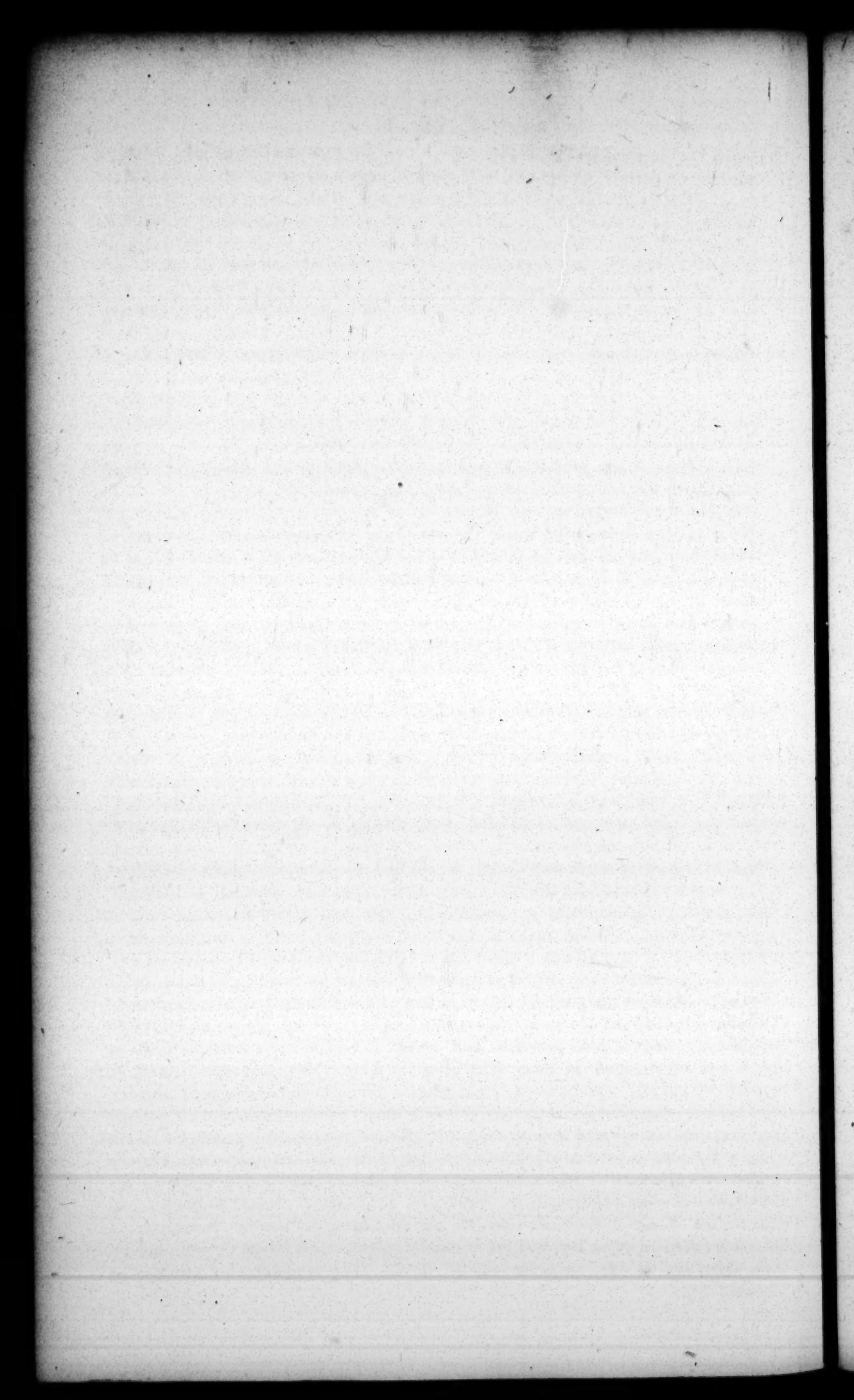
And your petitioner shall ever pray, &c.

### *Temporary Assignment to the Messenger, in order to take Place of an Extent.*

THIS indenture, made the — day of — in the — year of the reign of our sovereign lord George III. by the grace of God, of Great Britain, France and Ireland, king, defender of the faith, and so forth, and in the year of our Lord 1774; Between G. W. esq. and S. B. and C. H. gents. the major part of the comrs. named and authorized in and by a comm. of bankrupt awarded and issued against W. S. of, &c. of the one part, and W. C. (the messenger to the comm.) of London, gent. of the other part. Whereas a comm. of bankrupt under the great seal of Great Britain, bearing date at Westminster the — day of — grounded upon the several statutes made and now in force concerning bankrupts, or some of them, hath been awarded and issued forth against the said W. S. directed to the said G. W. S. B. and C. H. together with R. C. esq. and F. D. gent. thereby giving full power and authority to the said comrs. four or three of them, to execute the same, as in and by the said comm. relation being thereunto had, doth more fully and at large appear. And whereas the major part of the comrs in the said comm. named and authorized, having begun to put the said comm. into execution, upon due examination of witnesses, and other good proofs upon oath before them had and taken, found, or it otherwise appeared to them, that the said W. S. for several years before the date and suing forth of the said comm. exercised and followed the trade or business of a sugar refiner, and sought and endeavoured to get his living thereby, as others of the same trade or business usually do; and that he the said W. S. before the date and suing forth of the said comm. became indebted to J. H. in the sum of two hundred pounds and upwards, and being so indebted, he the said W. S. did, in the judgment of the major part of the comrs. in the said comm. named, become bankrupt, to all intents and purposes, within the true intent and meaning of the several statutes in the said comm. named, some or one of them, and they

declared him a bankrupt accordingly: And whereas the said comrs. parties to these presents, in further execution of the said comn. and of the statutes therein mentioned, have found, or it otherwise appears to them, that the said W. S. at the time of his becoming bankrupt, as aforesaid, or afterwards, was possessed of, interested in, or intitled to divers goods, wares, chattels, and other things, and that there were also divers debts, sum and sums of money, due and owing to him the said W. S. and his estate, from several persons: And whereas the said commissioners, parties hereto, think it necessary, for the better preserving and securing the estate of the said W. S. to appoint an assignee provisionally of his estate and effects, until choice shall be made, by the major part in value of the credrs. of an assignee or assignees of the estate and effects of the said bankrupt, pursuant to notice to be given in the *London Gazette* for that purpose: Now this indenture witnesseth, that the said comrs. parties to these presents, for the purpose aforesaid, and in further execution of the said comn. and of the statutes therein mentioned, and by force and virtue thereof, and for and in consideration of the sum of £. of lawful money of Great Britain, to them the said comrs. parties to these presents, in hand paid by the said W. C. at or before the sealing and delivering of these presents, the receipt whereof is hereby acknowledged, and also in consideration of the covenants herein after contained, on the part and behalf of the said W. C. his executors, administrators, and assigns, to be kept, done and performed, Have ordered, bargained, sold, disposed, assigned, and set over, and by these presents Do, as much as in them the said comrs. parties to these presents lie, and they lawfully may order, bargain, sell, dispose, assign, and set over unto the said W. C. the messenger under the said comn. his executors, administrators, and assigns, all and singular the goods, wares, chattels, debts, sum and sums of money, and all the personal estate whatsoever of the said W. S. of which he was possessed or intitled unto, or which any other person or persons was or were possessed, In trust for him at the time he became a bankrupt, or at any time since; To have and to hold, ask, demand, sue for, recover, levy, and receive all and singular the premises hereby assigned, or mentioned or intended so to be, unto the said W. C. his executors, administrators, and assigns, In trust for the immediate preservation thereof, and to and for the use, benefit and advantage of all the credrs. of the said W. S. who have already sought, or shall hereafter in due time come in and seek relief under the said comn. according to the several statutes therein mentioned, or some or one of them, and to and for no other use, trust, intent or purpose whatsoever; And the said W. C. doth hereby for himself, his heirs, executors, and administrators, and for every of them, covenant, promise, and agree, to and with the said comrs. parties to these presents, their executors, and administrators, and to and with every of them, in manner and form following, (that is to say) That he the said W. S. his heirs, executors, or administrators, some or one of them, shall and will, as soon as an assignee or assignees of the said bankrupt's estate and effects shall be duly chosen and appointed, pursuant to notice in the *London Gazette*, and when he shall be thereunto required for that purpose, join with the major part of the comrs. named in the said comn., in the making an assignment of all and singular the said goods, chattels, debts, sum and sums of money, wares and merchandize, and all other the premises herein before mentioned or intended to be hereby assigned, unto such person or persons who shall be duly chosen and appointed to be the assignee or assignees of the said bankrupt's estate; And that he the laid W. C. shall and will also deliver up all the estate and effects of the said bankrupt, as shall or may have come to the hands or possession of him the said W. C. or to the hands or possession



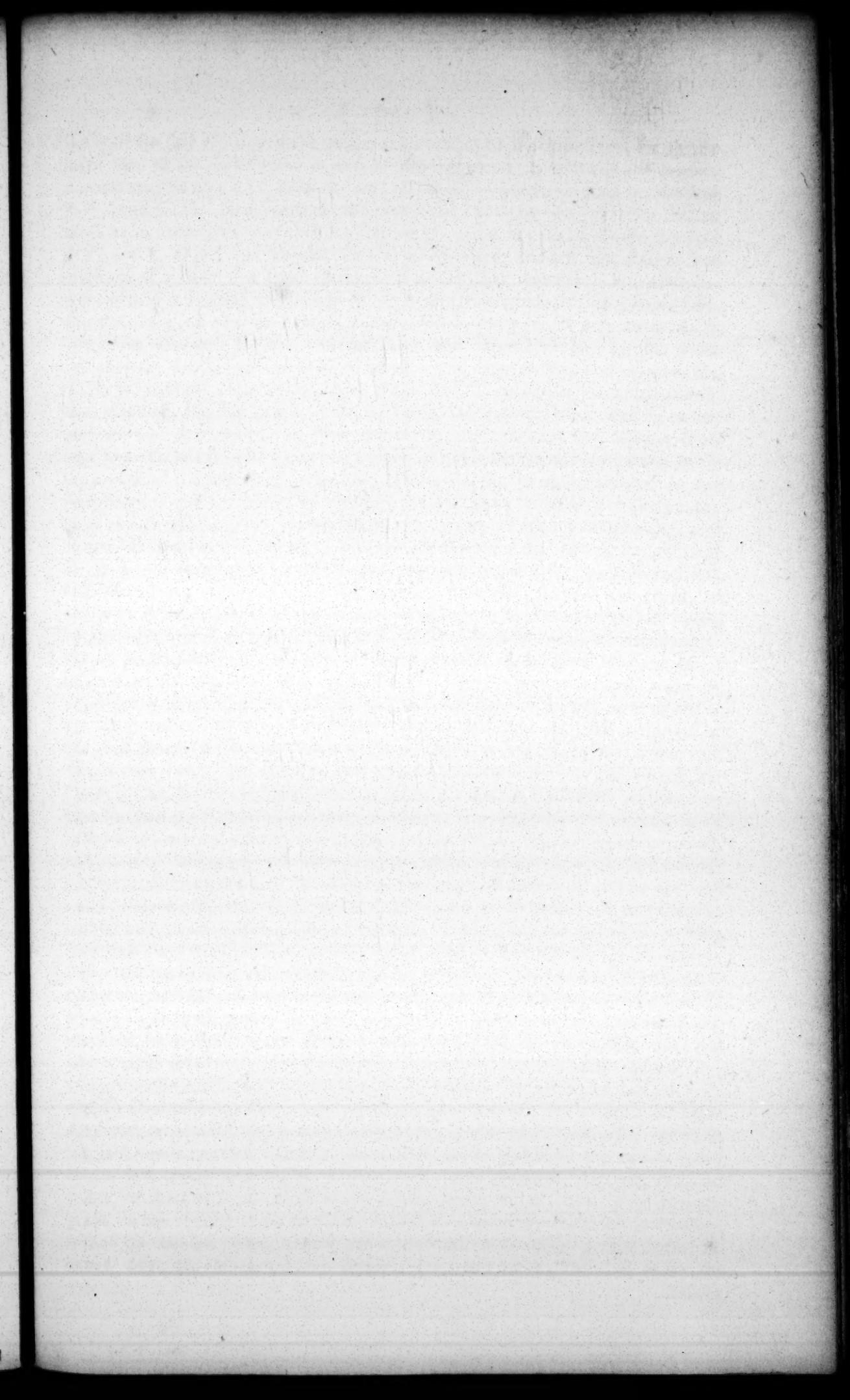


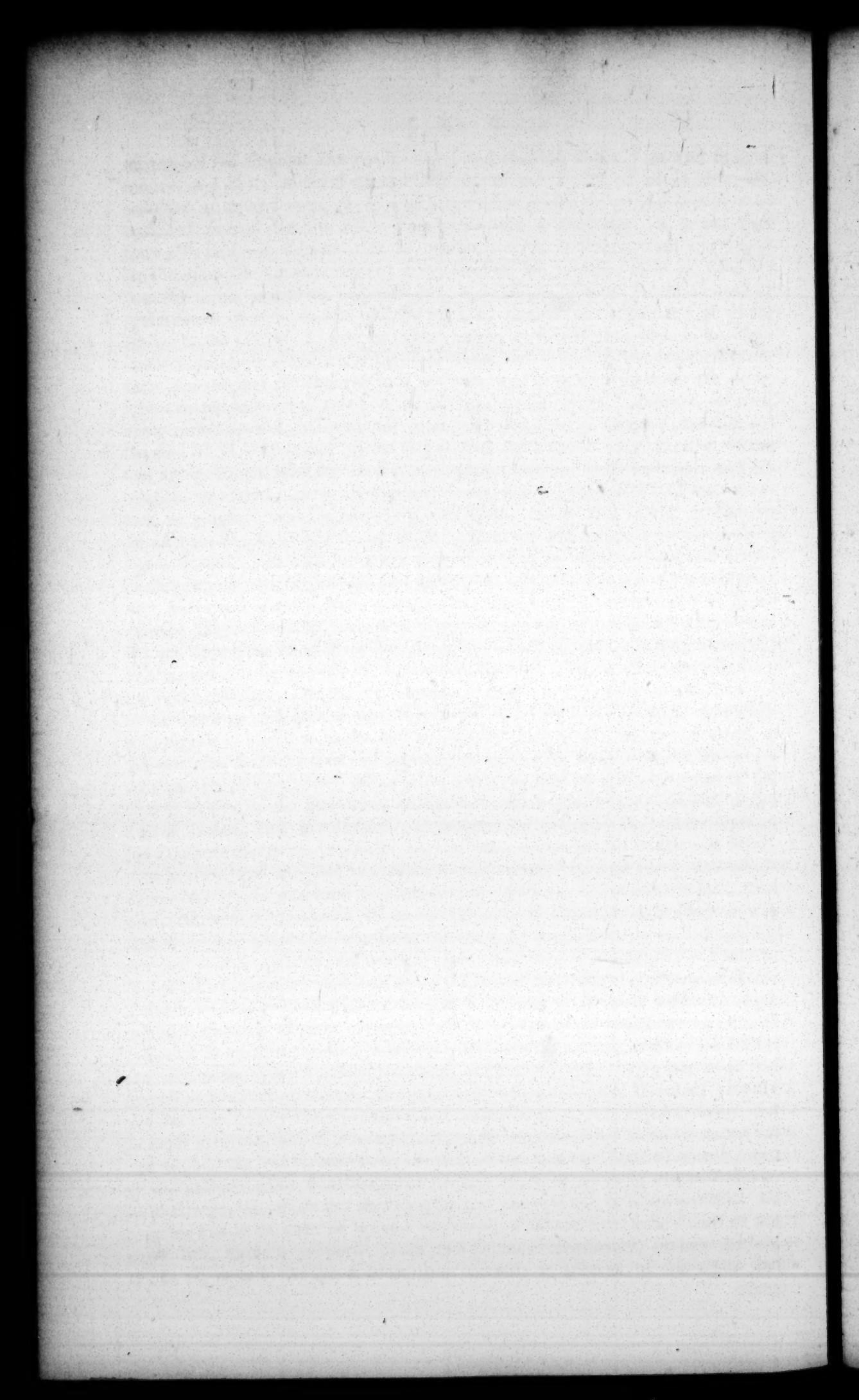
possession of any other person or persons, *In trust* for him and for his use, unto such person or persons as shall be duly chosen assignee or assignees of the said bankrupt's estate or effects, or otherwise as the said comrs. shall direct or appoint, and that he the said *W. C.* his heirs, executors, and administrators, shall and will, from time to time and at all times hereafter, well and sufficiently save, defend, keep harmless, and indemnified, *All* the said comrs. in and by the said comn. named and authorized, their heirs, executors, and administrators, and every of them, their and every of their bodies, lands, tenements, goods, chattels, and estate whatsoever, of, from and against all and all manner of action and actions, suits, arrests, complaints, costs, damages, and expences whatsoever, which they or any of them shall or may sustain, or be put unto, for or by reason or means of this present deed or assignment, or any act or acts to be done or executed by him the said *W. C.* in pursuance of, or by virtue of the said comn. or deed of assignment respectively. In witness whereof, *&c.*

### *Assignment to Assignees after a temporary Assignment.*

*T H I S* indenture tripartie, made the \_\_\_\_\_ day of \_\_\_\_\_ in the \_\_\_\_\_ year of the reign of our sovereign lord George III. by the grace of God, of Great Britain, France and Ireland king, defender of the faith, &c. and in the year of our Lord 1774. Between *W. C.* of London, gent. (*the messenger to the comn.*) of the first part, *G. W.* esq; and *S. B.* and *C. H.* gent. being the major part of the comrs. named and authorized in and by a comn. of bankrupt awarded and issued against *W. S.* of, &c. of the second part, *J. P.* of, &c. and *C. D.* of, &c. of the third part. Whereas a comn. of bankrupt under the great seal of Great Britain, bearing date at Westminster the \_\_\_\_\_ day of \_\_\_\_\_ grounded upon the several statutes made and now in force concerning bankrupts, or some of them, hath been awarded and issued forth against the said *W. S.* directed to the said *G. W. S. B.* and *C. H.* together with *R. C.* esq; and *F. D.* gent. thereby giving full power and authority to the said comrs. four or three of them, to execute the same, as in and by the said comn. relation being thereunto had, doth more fully and at large appear: And whereas the said *G. W. S. B.* and *C. H.* being the major part of the said comrs. in the said comn. named and authorized, having begun to put the said comn. into execution, upon due examination of witnesses, and other good proofs upon oath before them had and taken, found, or it otherwise appeared to them, that the said *W. S.* for several years before the date and suing forth of the said comn. exercised and followed the trade or business of a sugar refiner, and sought and endeavoured to get his living thereby, as others of the same trade or business usually do; and that he the said *J. R.* before the date and suing forth of the said comn. became indebted to *J. H.* of, &c. in the sum of two hundred pounds and upwards, and being so indebted, he the said *W. S.* did, in the judgment of the major part of the comrs. in the said comn. named, become bankrupt, to all intents and purposes, within the true intent and meaning of the several statutes in the said comn. named, some or one of them, and they declared him a bankrupt accordingly: And whereas the said comrs. parties to these presents, in further execution of the said comn. and of the statutes therein mentioned, and by virtue of the same, by indenture bearing date the \_\_\_\_\_ day of \_\_\_\_\_ made between the said *G. W. S. B.* and *C. H.* of the one part, and the said *W. C.* of the other part, for the consideration therein mentioned, did, as much as in them lay, and they lawfully might, order, bargain, sell, dispose, assign and set over, unto the said *W. C.* his executors, administrators and assignees,

assigns, all and singular the goods, wares and chattels, debts, sum and sums of money, and all the personal estate whatsoever of the said *W. S.* of which he was possessed or intitled unto, or of which any other person or persons was or were possessed, *In trust* for him at the time he became a bankrupt, or at any time since; *To hold, ask, demand, sue for, recover, levy, and receive all and singular the premisses thereby assigned or mentioned, or intended so to be, unto the said *W. C.* his executors, administrators and assigns, In trust for the immediate preservation thereof, and to and for the use, benefit and advantage of all the credrs of the said *W. S.* who had then sought, or should then after in due time come in and seek relief under the said comm according to the several statutes therein mentioned, or some or one of them, and to and for no other use, trust, intent or purpose whatsoever, as in and by the said recited indenture, relation being thereunto had, will and may more fully and at large appear; And whereas the said *W. C.* did, in and by the said recited indenture of assignment, covenant and agree, to and with the said comrs. parties thereto, their executors and administrators, and to and with every of them, that he the said *W. C.* his executors, or administrators, or some or one of them, should and would, as soon as an assignee or assignees of the bankrupt's estate and effects should be duly chosen, and appointed, join with the major part of the comrs. named in the said comm, in assigning all and singular the said goods, chattels, debts, sum and sums of money, wares and merchandizes, and all other the premisses in the said recited indenture assigned to him, unto such person or persons, who should be duly chosen and appointed to be the assignee or assignees of the said bankrupt's estate and effects, and that he the said *W. C.* would deliver up all the estate and effects of the said bankrupt, as should or might have come to his hands or possession, or to the hands or possession of any other person or persons, as should be duly chosen assignee or assignees of the said bankrupt's estate or effects, or otherwise, as the said comrs should direct or appoint, as in and by the said recited indenture may more at large appear: And whereas at a meeting of the major part of the comrs. in and by the said comm. named and authorized, at the *Guildhall* of the city of *London*, this — day of — pursuant to notice in the *London Gazette* for that purpose given, the major part in value of the credrs. of the said *W. S.* then present, and who had proved their debts under the said comm, and whose debts respectively amounted to ten pounds or upwards, did nominate, elect, and chuse the said *J. P.* and *C. D.* to be assignees of the estate and effects of the said *W. S.* and desired an assignment thereof to be made to them accordingly by the said *W. C.* and the said comrs. Now this indenture witnesseth, That the said *W. C.* for and in consideration of the sum of 10*s.* of lawful money of *Great Britain*, to him in hand paid by the said *J. P.* and *C. D.* at or before the sealing and delivery of these presents, and in pursuance of the above mentioned covenant in the above recited indenture mentioned, by the consent and direction of the said comrs. parties to these presents, testified by their being parties to and sealing and delivering hereof, Hath ordered, bargained, sold, dispoled, assigned and set over, and by these presents Doth order, bargain, sell, dispose, assign and set over unto the said *J. P.* and *C. D.* their executors and administrators, all and singular the goods, wares and chattels, debts, sum and sums of money, and all the personal estate whatsoever, of the said *W. S.* of which he was possessed or intitled unto, or which any other person or persons was or were possessed, *In trust* for him at the time he became bankrupt, or at any time since; and all the right, title, interest, property, claim and demand whatsoever, of him the said *W. C.* of, in or to the same, or any part thereof, as assignee of the estate and effects*





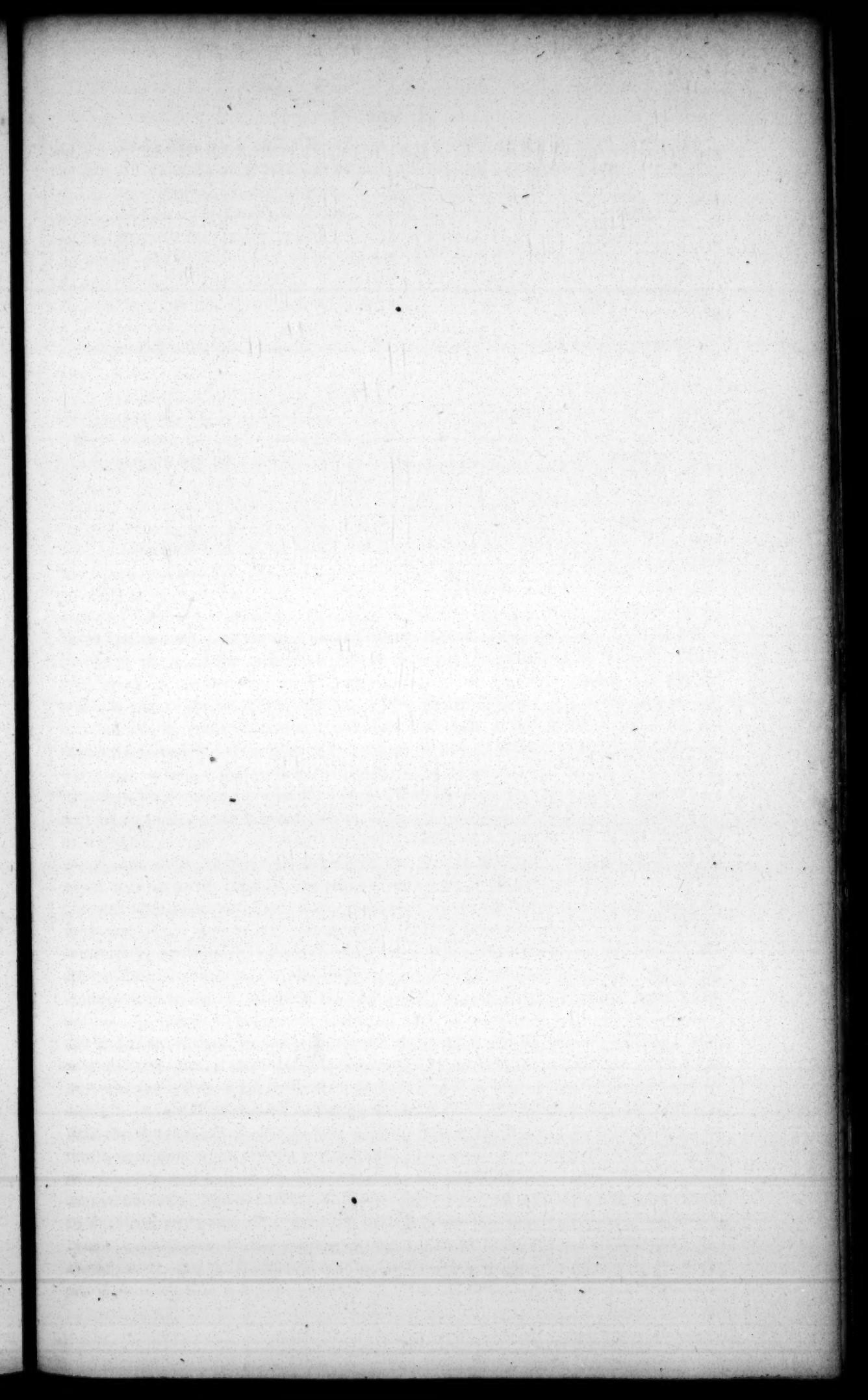
effects of the said *W. S.* and the said comrs. parties to these presents, being the major part of the said comrs. in and by the said comn. named and authorized, in consideration of 5 s. to them or one of them, in hand also paid by the said *J. P.* and *C. D.* Have ratified and confirmed, and by these presents Do, as much as in them lieth, and they lawfully may, ratify and confirm unto the said *J. P.* and *C. D.* all and singular the said goods, wares and chattels, debts, sum and sums of money, and other things, and all the estate whatsoever and wheresoever, of and belonging to the said *W. S.* herein before ordered, bargained, sold, disposed, assigned and set over by the said *W. C.* party hereto ; To have and to hold, ask, demand, sue for, recover, levy and receive the said goods, wares and chattels, debts, sum and sums of money, and other things, and all other the effects whatsoever, of or belonging to the said *W. S.* hereby ordered, bargained, sold, disposed, assigned and set over, or hereby mentioned or intended so to be, unto the said *J. P.* and *C. D.* their executors, administrators and assigns, Upon trust nevertheless (that is to say) to and for the use, benefit and advantage of all the credrs. of the said *W. S.* who have already sought, or shall hereafter in due time come in and seek relief by virtue of the said comn. according to the limitations and directions of the several statutes in that behalf made and provided, and to and for no other use, intent or purpose whatsoever ; And the said *J. P.* and *C. D.* do for themselves, severally and respectively, and for their several and respective heirs, executors and administrators, covenant, promise and agree, to and with the said comrs. parties to these presents, and to and with every of them, by these presents, that they the said *J. P.* and *C. D.* their executors, administrators or assigns, shall and will with all convenient speed, by all lawful and equitable ways and means use their utmost endeavours to recover and get in the several goods, wares and chattels, debts, sum and sums of money, and all other the estate and effects of the said *W. S.* and after possession had and obtained of the said goods, wares and chattels, debts, sum and sums of money, estate and effects whatsoever, or any part thereof, shall and will sell and dispose of the same, to and for the most and best value they can get for the same ; And further, that the said *J. P.* and *C. D.* their executors, administrators and assigns, shall and will from time to time, and at all times hereafter, upon reasonable request and notice to them given for that purpose, render and give unto the said comrs. parties to these presents, or the major part of the said comrs. in and by the said comn. named and authorized, and the major part of the comrs. to be named in and by any renewed comn. which may be awarded against the said *W. S.* at such time and place as they shall appoint, a true, just and perfect account in writing, under the hands and seals of the said *J. P.* and *C. D.* their executors and administrators, of what and how much money and other satisfaction, they the said *J. P.* and *C. D.* their executors, and administrators, shall have had, recovered and received, by virtue or means of this present deed of assignment, or otherwise, out of the estate and effects of the said *W. S.* and such money or other satisfaction, as upon such account shall appear to be had, raised and received, by the said *J. P.* and *C. D.* their executors or administrators, they the said *J. P.* and *C. D.* their executors or administrators, shall and will truly pay or cause to be paid, unto them the said comrs. parties to these presents, or the major part of the said comrs. in and by the said comn. named, or to the comrs. to be named in any such renewed comn. or the major part of them, or to such person or persons as they shall appoint, to the end the same or other satisfaction may be by them the said comrs. in and by the said comn. named and authorized, or the major part of them, ordered, disposed, distributed and divided, unto and amongst all and every the credra.

etedys. of the said *W. S.* who have already sought, or shall hereafter in due time come in and seek relief by virtue of the said comn according to the limitations and directions of the several statutes therein mentioned, proportionably according to the several debts owing to them severally and respectively from the said *W. S.* And lastly, the said *J. P.* and *C. D.* do hereby for themselves severally and respectively, and for their several and respective heirs, executors and administrators, covenant, promise and agree, to and with the said comrs, parties to these presents, their heirs, executors and administrators, that they the said *J. P.* and *C. D.* their executors and administrators, shall and will from time to time, and at all times hereafter, well and sufficiently save, defend, keep harmless and indemnified, the said comrs. in and by the said comn. named and authorized, and also the said *W. C.* their executors and administrators, and every of them, their and every of their bodies, lands, tenements, goods, and chattels, of and touching or concerning all and all manner of action and actions, suits, arrests, troubles, costs, damages, and expences whatsoever, which they or any of them shall sustain or be put unto, for or by reason of this present deed of assignment, or any other act or acts, thing or things, lawfully done or executed by virtue of the said comn. or the said recited assignment, or their or any of their lawful intermeddling in any of the estate of the said *W. S.* In witness, &c.

### *A Deed of Bargain and Sale of the Bankrupt's Lands, &c.*

This indenture made the \_\_\_\_\_ day of \_\_\_\_\_ in the 14th year of the reign of our sovereign lord George the third, by the grace of God, of Great Britain, France and Ireland, king, &c. and in the year of our Lord 1774. Between *G. W.* esq; *S. B.* and *C. H.* gent. of the one part, and *J. P.* of, &c. and *C. D.* of, &c. of the other part. Whereas his majesty's com. under the Great seal of Great Britain, grounded upon all or some of the statutes made concerning bankrupts, bearing date at Westminster the \_\_\_\_\_ day of this inst. hath been awarded against *W. S.* of, &c. directed to the said *G. W. S. B.* and *C. H.* together with *R. C.* esq; and *F. D.* gent. thereby giving unto them, four or three

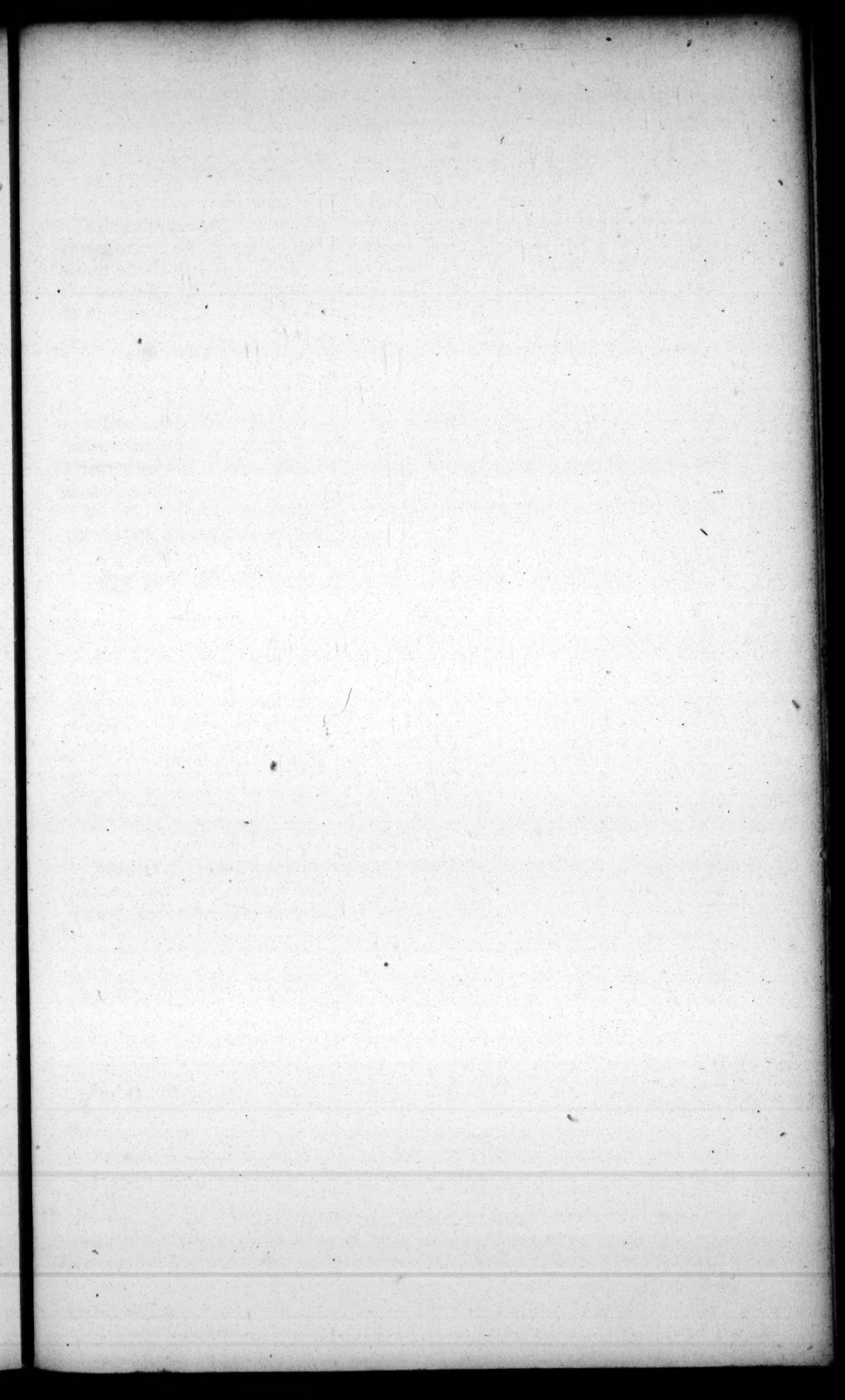
of them, full power and authority to execute the same, as in and by the said comn. relation being thereunto had, more fully may appear: And whereas the said comrs. parties to these presents, having begun to put the said comn. in execution, upon due examination of witnesses, and other good proofs upon oath before them had and taken, have found, or it otherwise appeared unto them, that the said *W. S.* for several years last past, before the date and suing forth of the said comn. had carried on the trade of a sugar refiner, in buying and selling sugars and refining the same, &c. thereby endeavouring to get his living, as others of the same trade usually do, and that he the said *W. S.* by reason of such his trade and business, did become justly and truly indebted, and still doth owe and stand indebted in the sum of 200*l.* to *J. H.* and *J. P.* (upon whose petition the said comn. issued) and that he the said *W. S.* being so indebted (in the judgment of the said comrs. parties to these presents) before the date and suing forth of the said comn. became a bankrupt, within the true intent and meaning of all or some or one of the several statutes concerning bankrupts: And whereas the major part of the said comrs. parties to these presents, in further execution of the said comn. and by due examination

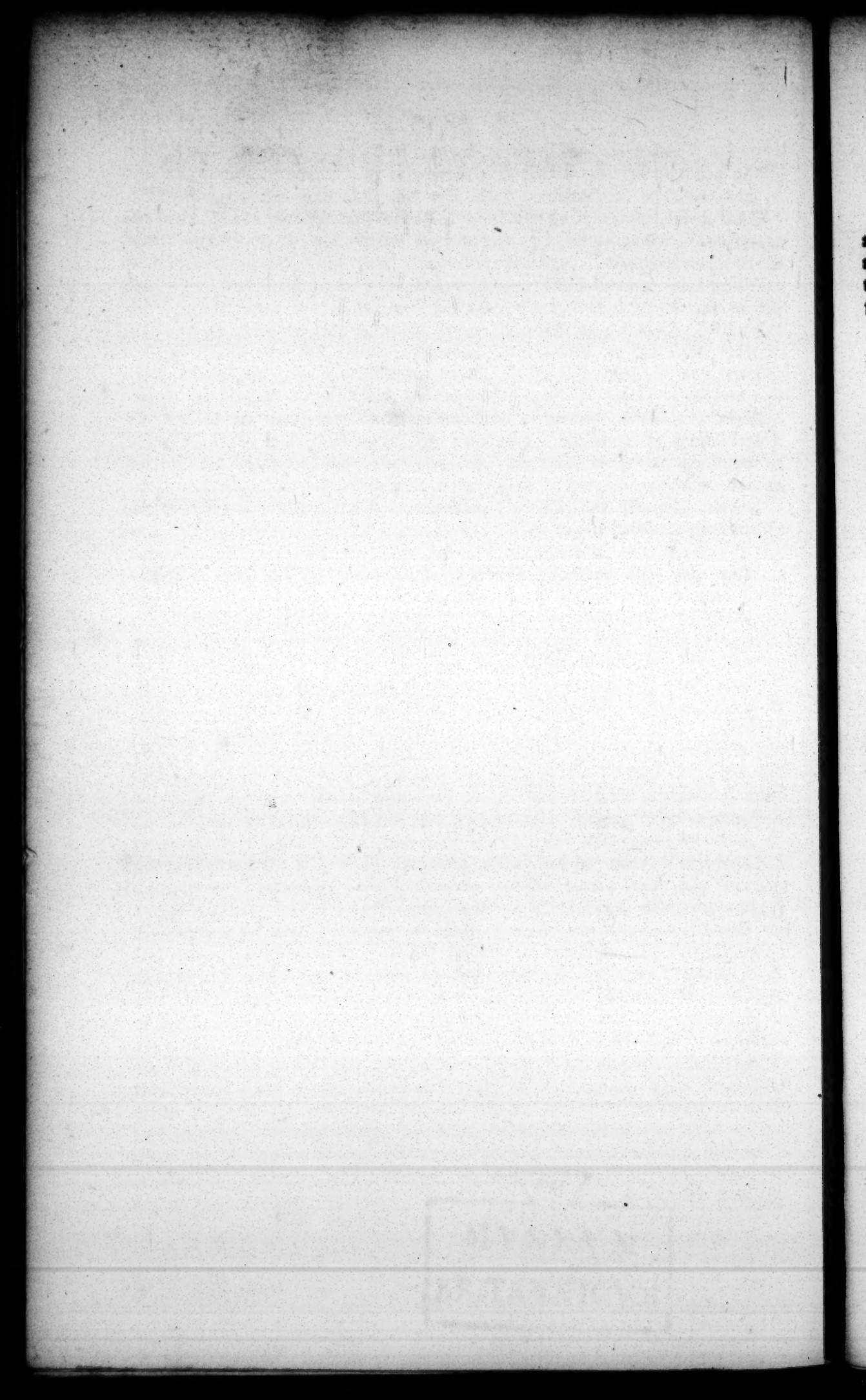


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nation of witnessess upon oath, found, or it otherwise appeared unto them, that the said W. S. at the time or times he became bankrupt as aforesaid, was seised or intitled unto several estates, situate, lying and being in, &c. (here describe the estates, and how the bankrupt became intitled to them): Now this indenture witnesseth, that the said comrs. parties to these presents, in further execution of the said comn. and by force and virtue thereof, and of the statutes therein mentioned, and for and in consideration of the sum of 5s. of lawful money of Great Britain, to them the said comrs. in hand well and truly paid by the said J. P. and C. D. at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, and also in consideration of the covenants and agreements herein after contained, on the part and behalf of the said J. P. and C. D. their heirs, executors, administrators and assigns, to be kept and performed, Have ordered, granted, bargained and sold, And by these presents (as much as in them the said comrs. parties to these presents lieth, and they lawfully may) Do order, grant, bargain and sell, unto them the said J. P. and C. D. their heirs and assigns, All the said bankrupt's messuages, &c. and also all the estate, right, title, interest, use, trust, property, possession, benefit, equity of redemption, claim and demand whatsoever, which he the said W. S. at the time of his becoming bankrupt as aforesaid, had of, or to all and singular the said messuages, &c. and all and singular other the premisses herein before mentioned, and hereby ordered, granted, bargained, and sold, or mentioned or intended so to be, with their and every of their appurtenances, and also all other messuages, lands, tenements and hereditaments whatsoever and wheresoever, which he the said W. S. hath purchased or obtained for money, or other recompence jointly with his wife, children or child, to the only use of him the said W. S. and also all such use, estate, interest, right and title whatsoever, which he the said W. S. had of, in, or to any messuages, lands, tenements and hereditaments whatsoever, at the time he became bankrupt as aforesaid, which he could depart withal, and all and singular other the premisses herein before bargained and sold, or mentioned, or intended so to be; To have and to hold all and singular the said messuages, &c. with their and every of their appurtenances, unto them the said J. P. and C. D. their heirs and assigns, to and for the only proper benefit and advantage of them the said J. P. and C. D. their heirs and assigns for ever, or according to the said W. S.'s right and interest therein, subject to such mortgage or mortgages, or other charges and incumbrances (if any such there be) as the same are legally charged with and liable to; in trust nevertheless, for the benefit and advantage of them the said J. P. and C. D. and all and every other the credtrs. of the said J. R. who already have come in and sought relief, or shall hereafter in due time come in and seek relief by virtue of the said comn. or any renewed comn. against the said W. S. and duly prove and ascertain their several and respective debts under the same, according to the directions and limitations of the said statutes; and as to the overplus, if any shall be after payment and satisfaction of all such debt or debts as shall or may be proved under the said comn. or any renewed comn. against the said W. S. and the charges of suing forth and prosecuting the same, in trust for the said W. S. his heirs or assigns, according to the statutes, and the true intent and meaning thereof. And the said J. P. and C. D. each of them for himself separate and a part, and for his own heirs, executors and administrators acts and deeds only, and not either of them for the other of them, his heirs, executors or administrators acts or deeds, do hereby severally and respectively covenant, promise and agree, to and with their and every of their heirs, executors and administrators, and with the said comrs. parties hereto, by these presents, in manner following, that is to say, that each of them the said J. P. and C. D. respective-

ly, and their heirs and assigns, shall and will, with all convenient speed, use their best endeavours, by suits at law, or otherwise, to recover and get possession of the said messuages, &c. and shall and will, after recovery and possession had of the same, or any part thereof, make sale and disposition thereof, with the like convenient speed, to and for the most money and best price and advantage he or they can or may, *bona fide*, obtain for the same. And further, that the said J. P. and C. D. their heirs, executors and administrators, shall and will, from time to time, and at all times hereafter, upon reasonable request or notice to them given for that purpose, under the hands of the comrs. by the said comn. or any renewed comn. authorised as aforesaid, or the major part of them, tender and give unto the said comrs. by the said comn. or any renewed comn. authorized as aforesaid, or the major part of them, a just and true account of all and every such sum and sums of money, or other satisfaction which they the said J. P. and C. D. their heirs, executors or administrators respectively, shall and may have received, obtained, or raised, by virtue of these presents, or by means of this present deed of bargain and sale, out of the said W. S.'s estate hereby bargained and sold, and all such monies, or other satisfaction as shall appear on such account to be so by them respectively received, had, obtained, or raised by them as aforesaid, they the said J. P. and C. D. shall and will (after all just allowances thereout deducted) upon the like reasonable request, well and truly pay, satisfy and render, or cause to be paid, satisfied and rendered to them the said comrs. authorized, or the major part of them, or as they or the major part of them shall direct or appoint under their hands, to the end the same monies, or other satisfaction may be by them the said comrs. in and by the said comn. or any renewed comn. authorized, or the major part of them, ordered, disposed, distributed and divided unto and amongst all and every the credrs. of the said W. S. who have already come in and sought relief, or shall hereafter in due time come in and seek relief by virtue of the said comn. according to the limitations of the said statutes therein mentioned as aforesaid, to the end the same monies and other satisfaction may be answered and paid to the credrs. seeking relief as aforesaid, proportionably according to their several debts due and owing to them respectively from the said W. S. according to the deed or order of dividend and distribution to be made by the said comrs. of the same; And they severally and respectively, and for their several and respective heirs, executors and administrators, do hereby further covenant, promise and agree to and with the said comrs. parties to these presents, their heirs, executors and administrators, and to and with every of them by these presents, that they the said J. P. and C. D. their several and respective executors and administrators, or some or one of them, shall and will from time to time, and at all times hereafter, well and sufficiently fave, defend, keep harmless and indemnified the said comrs. parties to these presents, their heirs, executors and administrators, and every of them, their and every of their bodies, lands, tenements goods and chattels, and every part thereof, and every of their officers, agents and servants, who have been by them, or any of them, employed in and about the execution of the said comn. of and from all and all manner of actions, suits, troubles, costs, charges, damages and expences, which they, or any of them shall or may suffer, sustain, or be put unto, for or by reason or means of this present deed of bargain and sale, or any other act or acts, thing or things whatsoever, lawfully done or executed by virtue of the comn. or their or any of their lawful intermeddling in or with the estate of the said W. S. In witness, &c.





*Memorandum of executing Bargain and Sale.**At, &c.*

*BE it remembered,* that we the major part of the comrs. named in the comm. against *W. S.* whose names are hereunto subscribed, met at the time and place above mentioned, and perused, examined and executed a bargain and sale of the said bankrupt's real estate to *J. P.* and *C. D.* the assignees chosen under the said comm.

*G. W.**S. B.**C. H.*

After this deed of bargain and sale is executed by the comrs. it must be acknowledged by one of them before a judge, or a master in chancery, &c. and by the statute of 27 Hen. 8. c. 16. sect. 1. *inrolled* within six months after the date of the deed.

*N. B.* Assignees can maintain no action relative to the bankrupt's real estate, till the bargain and sale is *inrolled*.

As yet of Hilary Term, witness William lord Mansfield.

*BE it remembered,* that on—— in this same term, came before our lord the king at Westminster *G. W.* esq; in his own proper person, and brought into the court of our lord the king before the king himself, then and there, a certain indenture, which he acknowledged to be his deed, and prayed that the said indenture might be inrolled of record, as his deed, before our said lord the king; and it is inrolled in these words and figures following, that is to say, *This indenture, &c.* sealed and delivered in the presence of——

*G. W. Esq; and others to J. P. and C. D.*

Inrolled in the court of King's Bench, before the king himself at Westminster, on—— in—— term in the—— year of the reign of our sovereign lord George the—— now king of Great Britain, &c.

Roll]

Hilary Term in the fourteenth Year of the Reign of George the Third.

Entries of *R. B.* gent. one of the attorneys, &c.

An indenture dated—— between *G. W.* and *S. B.* esqrs. and *C. H.* gent. of the one part, and *J. P.* of, &c. and *C. D.* of, &c. of the other part.

Roll

If acknowledged in the Common Pleas, the preamble is much shorter, which the clerk in the warrant of attorney office will add; and in C. P. there is no occasion for a docket.

You pay for inrolling after the rate of 3 d. per sheet.

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To prevent Imposition, correct Editions are signed by  
*B. Tovey.*

FH

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